

CHAPTER 10

HEALTH AND SAFETY

Part 1

Vector Control

- §101. Short Title
- §102. Definitions
- §103. Prohibited Acts
- §104. Responsibilities of Owners and Occupants
- §105. Vector Proofing
- §106. Plans and Specifications for Private Vector Control Programs
- §107. Authority to Abate Vector Problems
- §108. Penalties

Part 2

Nuisances

- §201. Intent
- §202. Nuisances
- §203. Definitions
- §204. Violation
- §205. Penalties

Part 3

Weeds

- §301. Keeping Grass and Weeds Cut
- §302. Duties of Owner or Occupant
- §303. Notice to Violator
- §304. Penalties

Part 4

Storage of Motor Vehicles Nuisances

- §401. Definitions
- §402. Motor Vehicle Nuisances Prohibited
- §403. Storage of Motor Vehicle Nuisances Permitted
- §404. Inspection of Premises; Notice to Comply
- §405. Authority to Remedy Noncompliance
- §406. Hearing
- §407. Penalties
- §408. Remedies Not Mutually Exclusive

Part 5

Outside Fuel Burning Appliances

- §501. Purpose, Scope and Applicability
- §502. Definitions
- §503. Regulations for New Outdoor Fuel Burning Appliances
- §504. Regulations for Existing Outdoor Fuel Burning Appliances
- §505. Permits and Appeals
- §506. Inspection
- §507. Enforcement and Penalties
- §508. Liability
- §509. Effective Date

Part 1
Vector Control

§101. Short Title. This Part shall be known as the "Vector Control Ordinance." (Ord. 248, 9/14/1982, §1)

§102. Definitions. For the purpose of this Part the following definitions shall apply:

ACCESSORY STRUCTURE - a detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on or partially on any premises.

BREEDING AREA - any condition which provides the necessary environment for the birth or hatching of vectors.

COLLECTION OF WATER - those contained in ditches, pools, ponds, streams, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, buckets, roof gutters, tanks of flush closets, reservoirs, vessels, receptacles of any kind, or other containers or devices which may hold water.

DILAPIDATED - fallen into partial ruin or decay.

DISPOSAL - the storage, collection, disposal, or handling of refuse.

EXTERMINATION - the control and elimination of vectors by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, fogging, larviciding, trapping, or by any other recognized and legal vector control elimination methods approved by the local or State authority having such administrative authority.

GARBAGE - all animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of foods.

HARBORAGE - any place where vectors can live, nest, or seek shelter.

OCCUPANT - any person, over one (1) year of age, living, sleeping, cooking, or eating in, or actually having possession of a dwelling unit or a rooming unit; except that in dwelling units a guest will not be considered an occupant.

OWNER - any person who, alone or jointly or severally with others:

(1) Shall have legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof.

(2) Shall have charge, care, or control of any premises, dwelling or dwelling unit, as owner or agent of the owner, or an executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Part and of the

rules and regulations adopted pursuant hereto, to the same extent as if he were the owner.

REFUSE - all solid wastes, except body wastes, and shall include garbage, ashes and rubbish.

RUBBISH - glass, metal, paper, plant growth, wood, or non-putrescible solid wastes.

VECTOR - a rodent, arthropod, or insect capable of transmitting a disease or infection. Vectors shall include, but not be limited to, rats, mosquitoes, cockroaches, flies, ticks, etc.

VECTOR PROOFING - a form of construction to prevent the ingress or egress of vectors to or from a given space or building or gaining access to food, water or harborage. This term shall include, but not be limited to, rat proofing, fly proofing, mosquito proofing, etc.

(Ord. 248, 9/14/1982, §2)

§103. Prohibited Acts

1. It shall be unlawful for any person, firm or corporation to deposit any refuse, offal, pomace, dead animals, decaying matter, or organic substance of any kind in or upon any private lot, building, structure, accessory structure, premises, or in or upon any street, avenue, alley, parkway, ravine, ditch, gutter, or into any of the waters of the Commonwealth so that same shall or may afford food, harborage, or breeding areas for rats, flies or other vectors.

2. It shall be unlawful for any person, firm or corporation to deposit or permit to accumulate in or upon any premise, improved or vacant, or on any open lot or alley, any lumber, boxes, barrels, bottles, cans, glass, scrap iron, wire, metal articles, pipe, broken stone or cement, broken crockery, broken plaster, or rubbish of any kind, unless the same may be kept in approved covered receptacles or placed on open racks that are elevated not less than eighteen (18) inches above the ground, and evenly piled or stacked, or disposed of as may be approved th the Department of Environmental Resources.

3. It shall be unlawful to maintain a junkyard or a place for the dumping or wrecking or disassembling of automobiles, trucks, tractors, or machinery of any kind or for the storing or leaving of dilapidated, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons which said places afford harborage or breeding areas for rats or other vectors.

4. It shall be unlawful to dump, bury, destroy or otherwise dispose of refuse except at an approved refuse disposal site,

5. It shall be unlawful to collect, haul, transport or convey garbage in open, unenclosed, non-leakproof vehicles.

6. It shall be unlawful to construct, maintain, or use a sewage system, privy, urinal, cesspool or other receptacle for human excrement so that vectors may have access to the excrementitious matter contained therein.

7. It shall be unlawful to have, keep, maintain, cause or permit any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated or maintained so as effectually to prevent such breeding.

(Ord. 248, 9/14/1982, §3)

§104. Responsibilities of Owners and Occupants.

1. Every owner of a dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

2. Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

3. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects and/or rodents on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(Ord. 248, 9/14/1982, §4)

§105. Vector Proofing.

1. Any dwelling, building, structure, accessory structure, premises or any other place may be required to be vectorproofed when found to be providing harborage or breeding areas for rats, flies, mosquitoes, or any other vectors.

2. It shall be unlawful for the owner, occupant, contractor, public utility company, plumber, or any other person to remove and fail to restore in like condition the vector proofing from any building, structure or accessory structure for any purpose.

(Ord. 248, 9/14/1982, §5)

§106. Plans and Specifications for Private Vector Control Programs.

A program plan and specifications for private vector control programs may be required to be submitted to the Borough as deemed necessary by the vector control program director. Said program plan shall be submitted by the owner or agent of the property on or in which said vector control program is or will be conducted. The program plan shall state the type of vectors to be controlled, the name of the company contracted to carry out

the program, and any and all work to be conducted in an effort to control said vectors. If, after review of the program plan by the Vector Control Program Director, it is found to be inadequate or incomplete, additional information may be required as well as additional control methods. (Ord. 248, 9/14/1982, §6)

§107. Authority to Abate Vector Problems.

1. From and after passage of this Part, the Borough and/or a representative of the vector control program is empowered to make inspections of the interior and exterior of all dwellings, buildings, structures, and accessory structures, premises, collections of water, or any other places to determine full compliance with this Part, and to determine evidence of vector infestation and the need for vectorproofing or additions or repairs to existing vectorproofing.

2. Whenever it shall be determined that any dwelling, building, structure, accessory structure, premise, collection of water, or any other place is in violation of this Part, a notice shall be issued setting forth the alleged violations, and advising the owner, occupant, operator, or agent that such violations must be corrected. The time for the correction of said violations must be given as well as the necessary methods to be employed in the corrections.

3. Whenever said violations shall fail to be corrected within the time set forth, and an extension of this time is not deemed to be necessary, the Borough may proceed to abate the said violations in the manner provided by the law.

(Ord. 248, 9/14/1982, §14)

§108. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Every day that a violation of this Part continues shall constitute a separate offense. (Ord. 248, 9/14/1982, §8; as amended by Ord. 288, 8/8/1994)

Part 2
Nuisances

§201. Intent.

1. Promote the general health, safety, morals, welfare and cleanliness and the beauty, convenience, comfort and safety of and in the Borough of Elizabethville.

2. Prohibit the maintenance of any dangerous conditions, structures or premises on public or private grounds.

3. Prohibit the accumulation of garbage and rubbish.

4. Prohibit the storage of abandoned or junked automobiles.

5. Prohibit the keeping or harboring of any dogs or other animals or fowl causing noise or odors disturbing a number of persons in the community.

6. Requiring the removal of any nuisance or dangerous structures by the owner or occupier of such grounds.

7. In default thereof, the Borough may cause the removal thereof, and collect the costs thereof together with a penalty of ten (10) percent of such costs.

(Ord. 253, 7/11/1983)

§202. Nuisances. The word "nuisance," as used in this Part, shall mean any use of property within the Borough, or any condition upon the property within the Borough that, other than infrequently, causes or results in annoyance or discomfort to persons beyond the boundaries of that property; interference with the health and/or safety of persons beyond the boundaries of that property or of persons who might reasonably be expected to enter upon or be in that property; and/or disturbance to or interference with the peaceful use of the property of others within the Borough, in any case taking into consideration the surrounding neighborhood. Specifically, the word "nuisance" shall include but shall not be limited to the following:

A. Loud playing of radios, television sets, amplifiers and other sound devices so as to be heard beyond the premises from which the same shall emanate.

B. Keeping or harboring any dogs or other animal or fowl which, by frequent howling or barking or other noise or odor shall annoy or disturb the neighborhood or a number of persons.

C. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:

(1) Open wells or cisterns.

(2) Open excavations.

(3) Unfinished buildings, foundations or other structures.

(4) Buildings or structures damaged or partially destroyed or in a state of disrepair.

(5) Dangerous placement or storage of vehicles.

(6) Ponds or swimming pools not properly safeguarded.

(7) Stagnant water in pools in which mosquitoes, flies or insects multiply.

D. Creating or maintaining "attractive nuisances," which is the leaving of a dangerous property or instrumentality which by its character is dangerous and attractive to children and in a place frequented by children.

E. A structure which is unfit for human occupancy or use whenever the Borough Officer finds that it is unsafe, or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin, rodent or rat infested; contains filth and contamination, or lacks ventilation, illumination, sanitation or because of its condition or location constitutes a hazard to its occupants or other persons in the neighborhood.

(Ord. 253, 7/11/1983)

§203. Definitions.

PERSON - any natural person, partnership, association, firm or corporation.

In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 253, 7/11/1983)

§204. Violation.

1. It shall be unlawful for any person to create, continue, cause, maintain or permit to exist any nuisance at any place within the Borough.

2. Whenever the Borough Officer determines that there has been a violation of this Part or has reasonable grounds to believe that a violation has occurred, he may enter the premises or structure at reasonable time or times for the purpose of making such inspection.

3. Whenever the Borough determines or has reasonable grounds to believe that there has been a violation of any provisions of this Part, or of any regulation adopted pursuant hereto, such authority shall give notice of such alleged violation by United States Mail to the last known address of the property owner and the tenant occupying the said premises. Such notice shall be in writing, include a statement of the reason for its issuance, allow a reasonable time for the performance of any act it requires (usually ten (10) days) and be served upon the property owner and tenant or the owner's agent as the case may require.

(Ord. 253, 7/11/1983)

§205. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars plus costs and,

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(10, §205, cont'd)

in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Every day that a violation of this Part continues shall constitute a separate offense. (Ord. 253, 7/11/1983; as amended by Ord. 288, 8/8/1994)

Part 3

Weeds

§301. Keeping Grass and Weeds Cut. No person, firm or corporation, owning or occupying any property within the Borough of Elizabethville, shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six (6) inches or to throw off any unpleasant or noxious odor or to conceal any filthy deposit or to create or produce pollen. Any grass, weeds or other vegetation growing upon any premises in the Borough in violation of any of the provisions of this Part is declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough. (Ord. 207, 10/11/1971, §1)

§302. Duties of Owner or Occupant. The owner of any premises, either as to vacant premises or premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of §301. (Ord. 207, 10/11/1971, §2)

§303. Notice to Violator. The Borough Council, or any officer or employee of the Borough designated thereby for the purpose, is authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of §301, directing and requiring such occupant to remove, trim or cut such grass, weeds, or vegetation, so as to conform to the requirements of §301 within five (5) days after issuance of such notice. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice, within the period of time state therein, the Borough authorities may remove, trim or cut the grass, weeds or vegetation, and the cost thereof, together with any additional penalty authorized by law, may be collected by the Borough from such person, firm or corporation, in the manner provided by law. (Ord. 207, 10/11/1971, §3)

§304. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 207, 10/11/1971; as amended by Ord. 288, 8/8/1994)

Part 4

Storage of Motor Vehicles Nuisances

§401. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ABANDONED OR JUNKED MOTOR VEHICLE - any motor vehicle in non-serviceable condition or any motor vehicle not having both a current state inspection sticker and current registration plate. Any such motor vehicle is considered to be a nuisance under the terms of this Part.

MOTOR VEHICLE - any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semi-trailers pulled thereby.

NUISANCE - any condition which shall constitute a danger or potential danger to the health, safety or welfare of the citizens of the Borough.

OWNER - the actual owner, agent, custodian or lessee of the property on which motor vehicles are stored, whether an individual, partnership, association or corporation.

PERSON - a natural person, firm, partnership, association, corporation or other legal entity.

(Ord. 301, 12/13/1999, §401)

§402. Motor Vehicle Nuisances Prohibited. It shall be unlawful for any person and/or owner to maintain a motor vehicle nuisance upon their property within the Borough. A motor vehicle nuisance shall include an abandoned or junked motor vehicle as that term is defined in this Part. (Ord. 301, 12/13/1999, §402)

§403. Storage of Motor Vehicle Nuisances Permitted.

1. Any person and/or owner who has one (1) or more motor vehicle nuisances as defined in §402 above may store such vehicle(s) in the Borough only in strict compliance with the regulations provided herein. Such person, owner or lessee must first apply for a permit for either temporary or permanent storage and pay a fee to the Borough in an amount as established, from time to time, by resolution of Borough Council. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or outside within an opaque fence at least six (6) feet high which is locked at all times when unattended.

2. With the special approval of the Borough Council motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six (6) feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed two thousand (2,000) square feet.

3. Nothing herein shall be construed to permit the storage of motor vehicle nuisance contrary to the provisions of any other Borough Ordinance or applicable land use ordinance.

(Ord. 301, 12/13/1999, §403)

§404. Inspection of Premises; Notice to Comply.

1. Any duly sworn law enforcement officer or the Code Enforcement Officer is hereby empowered to inspect private property on which motor vehicles are stored to determine if there is compliance with the provisions of this Part. If noncompliance with the provisions of this Part constitutes a nuisance, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises. [Ord. 325]

2. Said notice shall specify the condition and shall require the owner to commence to remove or otherwise rectify the condition within ten (10) days of mailing or posting of said notice.

(Ord. 301, 12/13/1999, §404; as amended by Ord. 325, 11/12/2007, §8)

§405. Authority to Remedy Noncompliance. If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the nuisance within the time limit prescribed, the Borough shall have the authority to take measures to correct the condition and collect the cost of such corrections plus ten (10) percent of all costs. The Borough, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing. (Ord. 301, 12/13/1999, §405)

§406. Hearing.

1. Any person aggrieved by the decision of a duly sworn law enforcement officer or Code Enforcement Officer may request and shall then be granted a hearing before the Borough Council, providing he files with the Borough Council within ten (10) days after notice, pursuant to §404, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than thirty (30) days after the date which the petition was filed unless postponed for sufficient cause.

2. After such hearing, the Borough Council shall sustain, modify or overrule the action of the duly sworn law enforcement officer or Code Enforcement Officer.

(Ord. 301, 12/13/1999, §406; as amended by Ord. 325, 11/12/2007, §§9, 10)

§407. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) plus costs, and in default of payment of said fine and costs, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 301, 12/13/1999, §407)

§408. Remedies Not Mutually Exclusive. The remedies provided herein for the enforcement of this Part, or any remedy provided by law, shall not be deemed mutually exclusive; rather; they may be employed simultaneously or consecutively, at the option of the Borough Council. (Ord. 301, 12/13/1999, §408)

Part 5

Outside Fuel Burning Appliances

§501. Purpose, Scope and Applicability.

1. Research has indicated that outdoor fuel burning appliances (OFBA) cause emission problems that cross property lines. Smoke can penetrate neighboring buildings and cause problems with visibility. An OFBA that supplies heat and/or hot water to residences are of special concern when compared to other outdoor burning and other transient sources of smoke. The fine particulates in smoke have been recognized as a particular health concern because they lodge deep in the lungs and cannot be easily expelled. Health studies have shown an association between exposure to fine particulates and cardiovascular problems such as angina, irritated eyes and lungs, headaches, and worsen respiratory diseases such as asthma, emphysema and bronchitis and in the worst case can cause premature mortality. The most recent research has demonstrated that the health impacts of fine particulates are worse than previously realized, prompting the U.S. EPA, in September, 2006, to lower the National Ambient Air Quality Standard (NAAQS) for two and one-half (2.5) micron particulates to a maximum twenty-four (24) hour average of thirty-five (35) micrograms per cubic meter. It is the intent of the Borough to regulate the installation, maintenance and operation of OFBA's within the Borough so this air quality standard can be reasonably met.

2. The Pennsylvania Code, Title 25, Chapter 121, also prohibits air pollution. This Part is specifically intended to prohibit any person within the Borough from operating any OFBA in a manner that the emissions are visible, malodorous or where air contaminants are detectable, outside the property of the person owning the appliance.

3. Residences and commercial and industrial establishments situated within the Borough are entitled to clean air and environmental circumstances free of unreasonable dust, obnoxious odors, noxious fumes and smells, as well as an environment free of stored debris and storage of combustible fuels within densely populated areas.

4. This Part shall provide regulations for the installation, replacement and operation of any exterior fuel burning appliance whose primary purpose is to convert combustible fuel into a heat or energy source for interior spaces.

5. This Part does not apply to:

A. Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

B. Burning in a stove, furnace, fireplace or other heating device that is located within a building or structure used for human or animal habitation.

C. The use of propane, acetylene, natural gas, fuel oil, gasoline, kerosene, etc., used in a device that is intended for temporary use during construction or maintenance activities.

D. This Part does not apply to patio wood burning units.

(Ord. 329, 10/13/2008, §1)

§502. Definitions.

AIR POLLUTION - the presence in the outdoor atmosphere of any form of contaminant including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances, waste or other matter in a place, manner or concentration inimical or which may be inimical to public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.

BOROUGH - Elizabethville Borough.

CHIMNEY - any vertical masonry structure enclosing a flue or flues that carry off smoke or exhaust gases from a furnace, especially that part of such structure extending above a roof.

CLEAN WOOD - wood without paint, or other coating and wood that has not been treated with including, but not limited to, cooper chromium arsenate, creosote pentachlorophenol or other wood life extending preservative.

DWELLING - a residence, whether or not currently occupied. Neighboring dwellings are dwellings, other than the OFBA owner's dwelling, which are located in the vicinity of the OFBA and which include, but are not limited to, dwellings on adjacent properties.

EPA-CERTIFIED - a furnace or appliance for which the manufacture has supplied a certificate of compliance, or other proof of compliance, with EPA promulgated emission standards for that particular furnace or appliance type and model. The certification must be in accordance with EPA approved procedures and test methods and be conducted by an EPA approved laboratory.

EXISTING APPLIANCE - an appliance that is fully installed and operational at the intended location of use as of the enactment date of this Part.

FINE PARTICULATES - particles less than two and one-half (2.5) microns in size present in the emissions from furnaces.

FIREWOOD - trunks and branches of trees and bushes, not including leaves, needles, and vines or brush less than three (3) inches in diameter.

NAAQS - National Ambient Air Quality Standards as set forth with the Code of Federal Regulations (40 CFR Part 50) by the EPA, which designates pollutants, considered harmful to public health and the environment.

NEW APPLIANCE - an appliance that is neither fully installed nor operational at the intended location of use as of the enactment date of this Part.

OBSTRUCTED - a solid structure, which may be a dwelling or building, which blocks the wind from blowing directly upon a particular dwelling or building. Trees and bushes do not constitute an obstruction. In addition, partial obstructions, such as fences or portions of buildings, shall also be deemed insufficient to be considered an obstruction.

OUTSIDE FUEL BURNING APPLIANCE (OFBA) - an outside fuel burning appliance is located outside living space ordinarily used for human or animal

habitation, and is designed to provide heat and/or domestic hot water to spaces or appliances within the residence or to a separate structure. Most commonly the appliances are located as a standalone unit, in a shed or other outbuilding and the heat is transferred by water through a system of insulated piping or insulated duct work to the residence or other structure.

PATIO FUEL BURNING UNIT - a chimnea, patio warmer or other portable temporary fuel burning device used for outdoor recreation and/or heating.

PROHIBITED FUELS - the owner shall only burn fuels in the appliance for which the appliance was designed to burn and which are approved by the manufacturer. Although no list of non-burnable materials can be all inclusive, no person shall burn any of the following fuels or materials in any appliance under any circumstances:

- A. Any wood that does not meet the definition of "clean wood."
- B. Garbage.
- C. Tires and other tire products.
- D. Waste petroleum products.
- E. Paint and paint thinners.
- F. Construction and demolition debris.
- G. Plywood.
- H. Manure.
- I. Asphalt products.
- J. Animal carcasses or other animal by-products.
- K. Plastic, rubber products, wire and cable insulation.
- L. Household trash, newspapers.
- M. Leaves or wet and soggy wood, grass clippings and other vegetative matter.
- N. Recyclable material.
- O. Batteries.
- P. Fiberglass or Asbestos products.
- Q. Bio-hazardous waste, bandages, wound dressings, syringes, etc.
- R. Human waste.
- S. Materials that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of the surrounding properties.

SCRUBBER OR FILTER SYSTEM - a diverse group of air pollution control devices that can be used to remove particulates and/or gases from exhaust gas streams.

STACK - a flue system for an outside multi-fuel burning stove that comprises a stainless steel flue pipe extending from a lower anchor plate at the wood burning stove upwardly and at the top of the flue pipe a control assemblage including an upper rain cover. The size and construction of the stack shall be in accordance with the manufacturer's specifications.

VERIFIED COMPLAINT - a verbal or written complaint from a Borough residence which is mailed, tendered or delivered to a representative of the Borough, which is subsequently verified to be valid through observation by a Borough representative within twenty-four (24) hours of receipt of the complaint. In the event of a verbal complaint, the resident will be requested to place the complaint in writing and submit it to a Borough representative. All written complaints must be dated and signed to be the basis of a verified complaint. Upon establishment of a verified complaint the property owner where the outside fuel burning appliance (OFBA) is located shall be subject to §§506 and 507.

WOOD BURNING APPLIANCE - a wood burning furnace, heater, stove or other appliance primarily intended for providing continuous or near continuous heat and hot water to a dwelling or other building.

(Ord. 329, 10/13/2008, §2)

§503. Regulations for New Outdoor Fuel Burning Appliances.

1. All new OFBA's shall be installed not less than two hundred (200) feet from the nearest dwelling not served by the appliance.
2. The stack shall be three (3) feet higher than the roof peak of any residence within five hundred (500) feet of the furnace.
3. The stack shall not exceed fifty-five (55) feet in height.
4. A "scrubber" or "filter" system must be attached to the appliance.
5. A fan or blower system must be attached to the appliance to assist with the efficient burning of the fuel.
6. OFBA's shall not be installed within twenty-five (25) of any structure without specific permission from the Borough Code Enforcement Officer (CEO) or other authorized Borough representative.
7. All OFBA's are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
8. All OFBA's shall be installed, operated and maintained in strict conformance with the manufacturer's specifications and the regulations promulgated herein. In the event of a conflict, the regulations promulgated herein shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
9. No homemade OFBA's will be allowed to operate in the Borough.
10. Only clean wood, coal, heating oil, natural gas, propane, kerosene or other fuel specifically permitted by the manufacturer in writing may be burned in an OFBA. The burning in an OFBA of processed wood products and nonwood products, household or other garbage, recyclable materials, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.
11. No OFBA shall be operated until inspected and approved for use by an authorized third party representative of the Borough Council.

12. No person shall install or operate a new outside fuel burning appliance in the Borough without first obtaining a permit. (The permit fee is \$100).

13. Ashes or waste cannot be accumulated in a large area on the property. Any accumulation of ashes or waste must be disposed of weekly.

14. All OFBA's may only be utilized for the sole purpose of furnishing heat and hot water to a dwelling during the period of October 1 through April 30; and only if the outdoor fuel burning appliance meets the requirements of this and any other applicable Borough ordinances.

15. No OFBA may be operated on days when the EPA has declared an "air quality action day" applicable to the Borough or Dauphin County.

16. All storage of materials to be burned in the OFBA, shall be neatly stacked and/or stored under cover and free from insects (termites, ants, mosquitoes, etc.), or any type of disease carrying rodents or vectors.

17. The stack or chimney shall be reinforced or guyed so as not to pose a threat to the public or surrounding structures during high winds.

18. All reinforcement or guying of the stack must be located on the property the OFBA serves.

(Ord. 329, 10/13/2008, §3)

§504. Regulations for Existing Outdoor Fuel Burning Appliances.

1. All OFBA's are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.

2. All OFBA's shall be operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated herein. In the event of a conflict, the regulations promulgated herein shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

3. All OFBA's in existence at the effective date of this Part shall have or must erect a stack or chimney which has a minimum termination height three (3) feet higher than the roof peak of any residence within five hundred (500) feet of the furnace but no more than fifty-five (55) feet above the natural ground level upon which the appliance is located.

4. All OFBA's in existence at the effective date of this Part shall have or must have installed a "scrubber" or "filter" type system attached to the appliance.

5. All OFBA's in existence at the effective date of this Part shall have or must install fan or blower to increase the efficiency of the appliance.

6. Only clean wood, coal, heating oil, natural gas, propane, kerosene or other fuel specifically permitted by the manufacturer in writing may be burned in an OFBA. The burning in an OFBA of processed wood products and non-wood products, household or other garbage, recyclable materials, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.

7. All OFBA's may only be utilized for the sole purpose of furnishing heat and hot water to a dwelling during the period of October 1 through April 30; and only if the OFBA meets the requirements of this Part.

8. No OFBA may be operated on days when the EPA has declared an "air quality action day" applicable to the Borough or Dauphin County.

9. If an OFBA is more than fifty (50) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit and the new unit must comply with all of the regulations listed in §503 of this Part.

10. Ashes or waste cannot be accumulated in a large area on the property. Any accumulation of ashes or waste must be disposed of weekly.

11. All storage of materials to be burned in the OFBA shall be neatly stacked and/or stored under cover and free from insects (termites, ants, mosquitoes, etc.) or any type of disease carrying rodents or vectors.

12. An authorized representative of the Borough Council shall inspect all OFBA's in existence at the effective date of this Part for compliance with this Part.

(Ord. 329, 10/13/2008, §4)

§505. Permits and Appeals.

1. No person shall install, replace or operate a new or existing OFBA in the Borough without first obtaining a permit from the Borough Code Enforcement Officer or other authorized representative of the Borough.

2. The request for a permit must be accompanied by a check or money order as payment of the permit fee. Checks or money orders should be made payable to "Elizabethville Borough." The permit fee for an outside fuel burning appliance is one hundred (\$100.00) dollars. If the permit is denied for any reason this permit fee is nonrefundable.

3. An additional thirty (\$30.00) dollars fee will be charged for any check or money order that is returned by the financial institution as non-payable for any reason. In addition, non-payable checks or money orders shall result in automatic denial of the application, unless the application fee and the additional fee are paid in full within thirty (30) days of notice of non-payment.

4. A permit to install, replace or operate an OFBA shall remain in effect for three (3) years from the time of issuance, unless revoked by the Borough council for any reason. A new permit must then be applied for and the OFBA must be reinspected for compliance with the manufacture, Borough and EPA specifications on file in the Borough office.

5. The following procedure shall be followed when applying for a permit:

A. Anyone who desires to install, replace or operate a new or existing OFBA upon their property in the Borough, must submit a request, in writing, to the Borough secretary along with the requisite application fee, at least thirty (30) days prior to the desired date of installation, replacement or operation.

B. Proof that the wood-burning appliance is certified to meet applicable EPA emission standards must be submitted with the request, unless the appliance is considered by EPA to be exempt from certification due to generally recognized low emissions. As of the date of this Part, the following wood-burning appliances are generally recognized by EPA to not need certification due to low emissions: (1) masonry stoves, and (2) pellet stoves, provided the air-fuel ratio is greater than thirty-five to one (35:1). For all other uncertified wood-burning appliances, proof of emissions lower than required for EPA-certified non-catalytic indoor stoves must be submitted in lieu of proof of certification. The owner of the wood-burning appliance shall also be required to submit with the proof of low emissions a copy of the manufacturer's recommended operating parameters and fuels necessary to achieve the low emissions. This information shall be kept on file at the Borough office along with copies of the permit, and proof of certification, or other proof of low emissions.

C. If an existing chimney is to be utilized, a statement from the Code Enforcement Officer, stating that the chimney has been inspected and is suitable for use with manufacturer's recommended fuels, shall be submitted with the application. If a new chimney is to be constructed, a construction permit will be required.

D. Within five (5) days of receipt of proof of certification, or site inspection, if required, a letter shall be forwarded to the applicant from the Code Enforcement Officer or other Borough representative, which either grants or denies the application to install the wood-burning appliance. In the event the application is denied, the letter shall state the reasons for denial.

E. Should the applicant desire to appeal a denial, written notice of the request for appeal shall be forwarded to the Borough Secretary within thirty (30) days of the date of denial.

F. Upon receipt of an appeal, the applicant will be heard by the Borough Council during the next scheduled Borough Council meeting.

G. Following the hearing, the Borough shall issue a written statement within thirty (30) days granting or denying the application. The decision shall be forwarded to the applicant by United States First Class Mail. The determination of the Borough Council shall be final unless an appeal is filed within thirty (30) days to the Dauphin County Court of Common Pleas, Harrisburg, Pennsylvania, in accordance with applicable procedures.

(Ord. 329, 10/13/2008, §5)

§506. Inspection. It is recognized that improper use, improper fuels, modifying or tampering with any appliance may cause an increase in emissions, such that it may become necessary to conduct site inspections to determine compliance. If a verified complaint is received by the Borough, the Borough may conduct an inspection to determine if the OFBA is being operated in accordance with the manufacturer's recommended operating parameters and approved fuels from the manufacturer's materials on file at the Borough Office. In the event the owner has received updated recommendations from the manufacturer, the same shall be utilized to determine compliance. The owner

shall be required to correct any deviations found as a result of the inspection. Failure to correct the deviations within thirty (30) days shall constitute a violation of this Part. The owner's refusal to allow the inspection shall result in immediate permit revocation. (Ord. 329, 10/13/2008, §6)

§507. Enforcement and Penalties.

1. The Borough Council may take any appropriate action at law or equity, civil or criminal, to enforce the provisions of this Part.

2. The Code Enforcement Officer or other authorized representative of the Borough may file complaints with the district justice to prosecute violations of the provisions of this Part.

3. In the event an owner does not comply with a notice from the Borough which requires that use of the appliance cease, the Borough shall have the authority to disconnect the appliance and/or render it unusable. The owner shall pay the costs of such measures including, but not limited to, the costs of any equipment and reimbursement of wages for Borough employees or agents. The Borough, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the owner's premises to accomplish the foregoing.

4. Every day that a violation of this Part continues, it shall constitute a separate offense.

5. Penalties are determined on the basis of the date of commission of the offense(s).

6. Penalties.

	Minimum Fine	Maximum Fine
1st Offense within 3-year period	\$75.00	\$500.00
2nd Offense within 3-year period	\$150.00	\$500.00
3rd Offense within 3-year period	\$325.00	\$500.00
4th or More Offense within 3-year period	\$500.00	\$500.00

7. In the event a violation of §§503(10) and 504(6) of this Part is found, the penalties set forth in §507 shall be doubled.

8. Failure of the owner to pay the costs and/or any fine within sixty (60) days shall result in permanent revocation of their permit.

9. Nothing in this Part shall be construed to impair any cause of action, or legal remedy thereof, of any person or the public for injury or damage arising from the emission of pollutants or the use of an OFBA.

(Ord. 329, 10/13/2008, §7)

§508. Liability.

1. The owner of the property utilizing or maintaining an OFBA shall be responsible for all fire suppression costs and any other liability resulting from damage caused by a fire.

2. The owner of the property utilizing or maintaining an OFBA shall be responsible for any damage or other cost to neighboring properties associated with the installation, maintenance and operation of an OFBA.

(Ord. 329, 10/13/2008, §8)

§509. Effective Date.

1. This Part shall take effect immediately upon enactment for all new outside fuel burning appliances installations.

2. This Part shall take effect seven (7) days from the date of enactment for all outside fuel burning appliances currently under construction.

3. Exceptions. For Borough residences who have existing outdoor fuel burning appliances in place that do not conform to §504, that portion of this Part will take effect sixty (60) days from date of enactment.

(Ord. 329, 10/13/2008, §11)

