

Chapter 10

Health and Safety

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Part 1**Nuisances****§10-101. Nuisance Defined.**

It shall be unlawful for any person, firm, corporation, or any agent thereof to do, authorize, and/or abet any of the following described sections or matters, which are hereby declared nuisances, these provisions being intended to promote the public safety, cleanliness, beauty, convenience, comfort and general welfare, and to safeguard the morals of the inhabitants of the Borough:

A. To place, or cause to be placed, drain, throw, or let fall, intentionally or negligently, accumulate or maintain upon any public street, road, lane, drive, alley or other public property, any soil, ashes, slag, coal, wood, metal, glass, paper, rubbish, oil, gasoline, or any other liquid or solid organic or inorganic material.

B. To maintain or erect any wall or fence or other obstruction, or permit the growth of any hedges, trees, shrubs, or other vegetation, at any intersection which obstructs the clear view of the driver of any motor vehicle or other vehicle direction and requires the operator to enter his vehicle upon the cross highway to obtain a clear view.

C. To erect or maintain any building or structure which may be dangerous or unsafe from any cause; provided, however, that the owner of any building or structure declared unsafe in the manner provided herein shall have the right to reconstruct or repair the same where the cost or value does not exceed 50 percent of the value of the building or structure exclusive of foundations. Any rebuilding or reconstruction shall be made to conform with respect to the materials any type of construction similar to the originals or in the event a building code or zoning code requires a different construction, the rebuilding or reconstruction shall comply with such codes in effect on the date an order is made hereunder.

D. To erect or maintain any post, wall, building, or other structure or to plant or maintain any hedge, shrub, tree, or other vegetation, or to dig, drill, or make or maintain any other opening in or upon any public street, road, lane, drive, alley, or other public property.

(Ord. 205, 2/4/1960, §1)

§10-102. Abatement of Nuisances.

The Council of the Borough of Chalfant shall have the power as a body, by committee or by its police officers together with their assistants, subordinates and workman, to enter upon any premises at any time to investigate the violation of any condition defined under this Part, and the Council, after investigation, shall declare any condition, to the extent that it may specify, a nuisance. It may order the same to be removed, abated, suspended, altered or make such orders as the cause may require, in accordance with the following procedure:

A. After complaint, or on its own motion, make a finding that a nuisance exists and serve its order upon the person or his agent liable for the same if found within the Borough, and the occupant or tenant of any property which may be the

source of said nuisance or liable shall be served by registered mail service, return receipt, to his last known address. If mail service cannot be made, the premises shall be posted with the order; any one publication in a newspaper of general circulation within the Township shall be deemed sufficient notice.

B. In event the respondent fails to comply with the order within 10 days, the Council of the Borough of Chalfant shall issue a written order to its police officers or to other agents directing them to abate or remove the nuisance.

C. If in the opinion of the Council an emergency exists, it may order the nuisance abated within such time deemed reasonable under the circumstances.

D. The Council shall certify the expenses incurred in abating any nuisances to the Borough Solicitor who shall collect or lien the same in the manner provided for municipal claims.

(Ord. 205, 2/4/1960, §3)

§10-103. Penalties.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 205, 2/4/1960, §1; as amended by Ord. 328, 12/12/1984, §10-203; by Ord. 340, 9/14/1988, §2; and by Ord. 408, 8/11/2011)

Part 2**Pornography****§10-201. Definitions.**

Borough—the Borough of Chalfant.

Knowledge or knowledge of such nuisance—having knowledge of the contents and character of the patently offensive sexual conduct or other content which appears in a “motion picture film,” “publication,” or “live theater production,” or knowledge of the acts of obscenity, assignation, or prostitution which occur in any “place.”

Live theater production—any dramatic musical or comedic production performed in the presence of a live audience.

Massage—any method of treating the superficial soft parts of the human body, for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading, or any similar treatment, accomplished by hand or by the use of any instrument.

Massage parlor—any building or structure or portion thereof, located within the Borough, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.

Matter—a “motion picture film,” “live theater production,” “publication,” or all three.

Model studio -

A. Any premises on which there is conducted the business of furnishing models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed, or otherwise similarly depicted for persons who pay a fee, or other considerations or compensation, or a gratuity, for the right or opportunity so to depict the figure model, or for the admission to, or for permission to remain upon, or as a condition for remaining upon the premises.

B. Any premises where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration or compensation or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed, or otherwise similarly depicted.

C. Exception—the words “model studio” do not include:

(1) Any studio which is operated by any state college or junior college, public school, or any government agency wherein the person, firm, association, partnership, or corporation operating it has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma.

(2) Any premises where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in subparagraph (1) of this paragraph.

(3) Any studio operated by a tax exempt, nonprofit corporation devoted

to the development of art and its appreciation.

Motion picture film -

- A. Film or plate negative.
- B. Film or plate positive.
- C. Film designed to be projected on a screen for exhibition.
- D. Films, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen.
- E. Video tape or any other medium used to electronically reproduce images on a screen.

Nude -

- A. Completely without clothing.
- B. With the human male or female genitals, pubic area, or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the covered male genitals in a discernibly turgid state.

Obscene matter—any matter -

- A. Which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to prurient interests.
- B. Which depicts or describes patently offensive representations or descriptions or:
 - (1) Ultimate sexual acts, normal or perverted, actual or simulated.
 - (2) Masturbation, excretory functions, or exhibition of the genitals or genital area.
- C. The matter, taken as a whole, lacks serious literary, artistic, political, educational, or scientific value.

Person—any individual, partnership, firm, association, corporation, or other legal entity.

Place—includes, but is not limited to, any building, structure, or space, or any separate part or portion thereof, whether permanent or not, on unimproved ground.

Publication—any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a “motion picture film” which is displayed in an area open to the public, offered for sale, or exhibited in a coin-operated machine.

Sale—a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, obscene matter.

(*Ord. 306, 12/12/1979, §1; as amended by Ord. 328, 12/12/1984, §10-301*)

§10-202. Obscene Films, Live Theater Productions, Publications, and Places Exhibiting the Same Declared a Public Nuisance; Abatement Thereof.

1. Any and every place in the Borough where obscene motion picture films or live theater productions are publicly exhibited or possessed for the purpose of such

exhibition; and, any and every place in the Borough where obscene publications are publicly disseminated or sold, or possessed for the purpose of such dissemination, is hereby declared to be a public nuisance.

2. Any and every obscene motion picture film or live theater production which is publicly exhibited in the Borough, and any and every obscene publication which is publicly displayed, disseminated or sold, or possessed for such purpose in the Borough is hereby declared to be a public nuisance, *per se*.

3. From and after service on the place, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of the summons and complaint to abate a nuisance, all monies paid thereafter as admission price to such exhibitions or productions, or purchase price of such publications, are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(Ord 306, 12/12/1979, §2)

§10-203. Massage Parlors or Model Studios Used for Purposes of Obscenity, Assignation, or Prostitution, or upon Which Such Acts Occur, Declared a Public Nuisance; Abatement Thereof.

1. Every massage parlor or model studio, which as a regular course of business, is used for the purposes of obscenity, assignation, or prostitution, and every such massage parlor or model studio in or upon which acts of obscenity, assignation, or prostitution, are held or occur, is declared to be a public nuisance which shall be enjoined, abated, and prevented.

2. From and after service on the place, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of the summons and complaint to abate a nuisance, all monies, or other valuable consideration paid for services rendered to customers are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 306, 12/12/1979, §3)

§10-204. Knowledge of Nuisance Presumed from Notice of Summons and Complaint; Responsibility of Parties Therefor; Abatement of Such Nuisances.

1. Upon and after receiving notice through service of a true and correct copy of this Part and a true and correct copy of the summons and complaint to abate a nuisance or notice by the Borough Secretary of the character of the obscene film, production, publication, or place, any and every person who shall own, legally, or equitably, lease, maintain, manage, conduct or operate a place in the Borough which is declared to be a public nuisance, as set forth and stated in §§10-102 or 10-103 of this Part, is deemed to be a person who has knowledge of such nuisance for the purpose of this Part, and may, thereafter, be responsible for its maintenance, and liable therefor.

2. The places and matters declared to be a public nuisances under §10-102 or §10-103 shall be abated as provided for herein.

(Ord. 306, 12/12/1979, §4)

§10-205. Who May Take Action; Posting of Bond.

1. The Borough Secretary of the Borough Council of Chalfant Borough, or any citizen of the Commonwealth of Pennsylvania residing within the Borough may maintain an action of an equitable nature in the name of the Borough, in the latter case upon the relation of such citizen, to abate a nuisance.

2. No bond shall be required of the Borough. If such action is instituted by a private citizen, a bond may be required in the amount of not less than \$500, to secure to the defendants the proximate damages which may be sustained, including attorney's fees in the discretion of the Court, if it is found that there were no reasonable grounds for said action.

3. Immunity from liability is hereby granted all officials of Borough of Chalfant who may initiate or vote to institute and prosecute under this Part.

(Ord. 306, 12/12/1979, §5)

§10-206. Remedies.

1. *Civil.*

A. Money damages may be recovered:

(1) For compensation for loss or harm suffered in person or property by the Borough or private citizen flowing from such nuisance.

(2) As exemplary or punitive damages for the purpose of providing an example or to punish the offender, where it is shown that the offender has been guilty of malice. Malice means an intent to do a wrongful act, that is, an intent to maintain, permit, or allow a nuisance to exist.

B. Preliminary and permanent injunctions may be issued to prevent the further maintenance of a nuisance and to prevent the further sale or exhibition of obscene motion picture films, live theater productions and publications. The procedures for obtaining such injunctions shall be governed by the Pennsylvania Rules of Civil Procedure, preserving the right of trial by jury upon the application for permanent injunction.

C. Upon the trial on the merits of the permanent injunction, if the court and/or jury finds a place to be a nuisance, the court may issue an order closing the place to all uses and purposes for the period of 1 year. If the offenders or persons owning, in control or in charge of such place certify that the nuisance has been abated and that the films, productions, or publications found to be obscene shall not be exhibited, sold or otherwise disseminated and, at the discretion of the court, post a bond in an amount not to exceed the value of the personal property possessed or contained at such place for the maintenance of the nuisance, the court may release such person or persons from the closure order. The release shall remain in effect for 1 year or until the nuisance is found to exist at the place before the expiration of 1 year. The bond shall be deposited with the court prior to the release of any closure order and shall be returned to the person posting said bond, without interest at the expiration of 1 year, provided that the nuisance is not maintained or re-established within that year. Prior notice of at least 30 days must be given the Borough of the filing of a petition to return any bonds.

2. *Criminal.* Any person, firm, or corporation who shall violate any provision of

this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 408]

3. The remedies provided herein shall be cumulative. There may be criminal and civil prosecution for the same violations of this Part, and neither shall be a bar to the other.

(Ord. 306, 12/12/1979, §6; as amended by Ord. 328, 12/12/1984, §10-306; by Ord. 340, 9/14/1988, §2; and by Ord. 408, 8/11/2011)

§10-207. Forfeiture to the General Fund of the Borough; Cost of Abatement; Manner of Collection.

1. If the existence of the nuisance is established at the trial, a judgment shall be entered which shall permanently enjoin the defendants, and any other person with notice or knowledge of the action and judgment, from maintaining such nuisance elsewhere, and the entire expenses of such abatement action shall be recovered by the plaintiff as costs.

2. The cost of abatement shall include the following:

A. Investigative costs.

B. Court costs.

C. Reasonable attorney's fees arising out of the preparation for, and trial of the case, and appeals therefrom, and other costs allowed on appeal.

D. Printing costs of trial and appellate briefs, and all other papers filed in such proceeding.

Such costs of abatement may be made a special assessment against the place or the parcel of land upon which such place is located. Upon its determination by the court, an *in rem* lien may be entered against such property and a personal obligation against any person, and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to such special assessment.

3. Upon judgement for the plaintiff in legal proceedings brought pursuant to this Part, an accounting shall be made by such defendant or defendants of all monies or valuable consideration received by them which have been declared to be a public nuisance under §§10-202 or 10-203 of this Part. Such monies or their equivalent and any valuable consideration received shall be forfeited to the General Fund of the Borough or to the Borough as property of the Borough if any valuable consideration received by not money.

(Ord. 306, 12/12/1979, §7)

Part 3**Storage of Motor Vehicle Nuisances****§10-301. Definitions.**

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

Lessee—owner for the purpose of this Part when the lessor holds the lessee responsible for maintenance and repairs.

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

Nuisance—any condition, structure, or improvement which shall constitute a threat or potential threat to the health, safety, or welfare of the citizens of the Borough of Chalfant.

Owner—the actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association, or corporation.

Person—a natural person, firm, partnership, association, corporation, or other legal entity.

2. In this Part s the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 328, 12/12/1984, §10-401)

§10-302. Motor Vehicle Nuisances Prohibited.

1. It shall be unlawful for any person, owner, or lessee to maintain a motor vehicle nuisance upon the open private grounds of such a person, owner, or lessee within the Borough of Chalfant. The motor vehicle nuisance shall include any vehicle without a current inspection sticker and/or without a current license plate, or any vehicle which by visual inspection can be determined to be seriously or permanently disabled, abandoned or in the process of being dismantled. Also, any vehicle not in running condition and located on a lot for more than 30 days shall not be an accessory use.

2. *Motor Vehicles on Undeveloped Property.* Motor vehicles shall not be parked on undeveloped vacant land. Vehicles are accessory uses to residential and nonresidential structures and land uses. They are permitted in driveways, parking lots and other approved areas. Vehicles either with or without current registration and/or license plates shall not be abandoned, stored or parked on vacant lots or property not otherwise in use.

3. *Motor Vehicle Repair/Service Stations.* Motor vehicle service stations, repair garages, bus garages, and auto body repair garages are subject to the following the conditions:

A. Parking of more than six vehicles not in running condition and not completely enclosed in a building is prohibited.

B. With the exception of minor incidental maintenance and repairs, all work

must be done indoors.

C. All debris, used tires, junk, etc., shall be stored in an enclosure in such a manner that it cannot be seen from any adjacent property or from the roadway.

D. No motor vehicle repair work shall be permitted in conjunction with parking facilities in any area.

E. *Reduction of Noise.* Any person who is conducting any operation regulated by this Part shall reduce the noise to lawful levels and confine it to the hours between 8 a.m. and 8 p.m. Operations conducted outside these hours shall require a permit issued by Borough Council. Said permit shall be issued at Council's discretion upon review of the applicant's petition.

F. Yards and all entrances thereto shall be suitably fenced in such a manner as to prevent entry by anyone other than the owner of the yard or his or her agent.

(*Ord. 328, 12/12/1984, §10-402; as amended by Ord. 367, 10/9/1996, §§1-3*)

§10-303. Storage of Motor Vehicle Nuisances Prohibited.

1. Any person, owner, or lessee who has one or more motor vehicle nuisances as defined in §10-302 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 such as may be provided from time to time by resolution of the Borough Council. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building. 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 200 square feet. [*Ord. 408*]

2. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of the Borough Zoning Ordinance [Chapter 27].

(*Ord. 328, 12/12/1984, §10-403; as amended by Ord. 408, 8/11/2011*)

§10-304. Inspection; Notice to Comply.

1. The enforcement officer designated by Borough Council is hereby empowered to inspect grounds 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, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, 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.

2. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

(*Ord. 328, 12/12/1984, §10-404*)

§10-305. Authority to Remedy Noncompliance.

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the conditions, within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 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. 328, 12/12/1984, §10-405*)

§10-306. Hearing.

1. Any person aggrieved by the decision of the enforcement officer may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within 10 days after notice of the enforcement officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on 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 enforcement officer.

(*Ord. 328, 12/12/1984, §10-406*)

§10-307. Penalties.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 328, 12/12/1984, §10-407; as amended by Ord. 340, 9/14/1988, §1; and by Ord. 408, 8/11/2011*)

§10-308. 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. 328, 12/12/1984, §10-408*)

Part 4**Personal Property Storage Nuisances****§10-401. Definitions.**

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

Lessee—owner for the purpose of this Part when the lessor holds the lessee responsible for maintenance and repairs.

Nuisance—any condition, structure, or improvement which shall constitute a threat or potential threat to the health, safety, or welfare of the citizens of the Borough of Chalfant.

Owner—the actual owner, agent, or custodian of the property on which machinery, equipment or materials are stored, whether individual or partnership, association, or corporation.

Person—a natural person, firm, partnership, association, corporation, or other legal entity.

2. 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. 328, 12/12/1984, §10-501)

§10-402. Health Hazards and Nuisances Prohibited.

It shall be unlawful for any person to create or maintain any condition upon their property which could directly or indirectly cause a nuisance or health hazard to residents of the Borough of Chalfant. Specifically, the unsheltered storage or maintenance of unused, stripped, damaged and generally unusable machinery or equipment, or materials, shall be considered a nuisance and/or health hazard if any of the following conditions exist:

- A. Broken glass or metal parts with sharp or protruding edges.
- B. Openings or areas which are conducive to the harboring and growth of vermin.
- C. Storage in any manner which would allow the equipment, machinery, material, or any parts thereof to easily shift, tilt, or fall from its original storage position.
- D. Contains any liquid or material of a hazardous or potentially hazardous nature, including, but not limited to, gasoline, oil, battery acids, refrigeration agents, and poisons.
- E. Any other condition which, in the opinion of the inspecting official shall be deemed to be a health hazard, potential health hazard or nuisance.

(Ord. 328, 12/12/1984, §10-502)

§10-403. Storage Requirements.

1. Storage of such items as listed in §10-402 hereof on personal property shall be

permitted only in strict compliance with the regulations provided herein or with stricter regulations in other Borough ordinances, or in State or Federal laws. Each person, owner or lessee desiring to store items described in §10-402, must first apply for a permit for either temporary or permanent storage and pay a fee to the Borough such as may be provided from time to time by resolution of the Borough Council. The nuisance(s) must be stored within a garage or other enclosed building or, outside within an opaqued fence at least 6 feet high which is locked at all times when unattended. With the special approval of the Borough Council nuisances may also be stored outside in an area enclosed by a chain link fence, at least 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 the machinery, equipment, or materials shall be kept free of vermin infestation while being stored; and, all gas, oil or other potentially hazardous substances shall be removed. The total area of storage of such potential nuisances may not exceed 200 square feet.

2. Nothing herein shall be construed to permit the storage of machinery, equipment, or material nuisances contrary to the provisions of the Borough Zoning Ordinance [Chapter 27].

(*Ord. 328, 12/12/1984, §10-503*)

§10-404. Inspection; Notice to Comply.

1. The Enforcement Officer designated by Borough Council is hereby empowered to inspect grounds on which machinery, equipment, and/or various materials 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, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, 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.

2. Said notice shall specify the condition considered to be a hazard and/or nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth in the notice within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

(*Ord. 328, 12/12/1984, §10-504*)

§10-405. Authority to Remedy Noncompliance.

If the owner of grounds on which machinery, equipment, and/or materials are stored does not comply with the notice to abate the conditions, within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 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. 328, 12/12/1984, §10-505*)

§10-406. Hearing.

1. Any person aggrieved by the decision of the Enforcement Officer may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within 10 days after notice of the Enforcement Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on 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 Enforcement Officer.

(*Ord. 328, 12/12/1984, §10-506*)

§10-407. Penalties.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 328, 12/12/1984, §10-507; as amended by Ord. 340, 9/14/1988, §1; and by Ord. 408, 8/11/2011*)

§10-408. 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. 328, 12/12/1984, §10-508*)

Part 5**Open Burning****§10-501. Short Title.**

This Part shall be known as the “Open Burning Ordinance.”
(*Ord. 413, 11/13/2013, Art. I*)

§10-502. Applicability of Part.

This Part applies to all outdoor burning and open burning within the Borough except for the following:

A. It shall not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances in an appropriate container or fireplace.

B. It shall not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

C. It shall not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(*Ord. 413, 11/13/2013, Art. II, §1*)

§10-503. Restrictions on Permitted Open Burning.

Open burning of wood, trees, logs, and/or stumps shall only be permitted in compliance with the following:

A. Only clean, dry, wood products may be burned.

B. Burning shall only be permitted in an approved outdoor rated fireplace, fire pit or a chiminea.

C. No burning shall be permitted between the hours of 10 p.m. and 7 a.m., prevailing time.

D. All burning and fires must be no less than 15 feet distant from the nearest structure.

E. All outdoor burning shall be attended at all times by an individual not younger than 18 years of age.

F. Adequate means of fire extinguishment must be immediately available at all times when outdoor burning is taking place.

G. Persons utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

H. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire

protection regulations and the International Fire Code, as amended.

I. No materials may be burned upon any street, curb, gutter, sidewalk or on the ice of a lake, pond, stream, or water body, or on any public property.

J. No person shall be permitted to create or permit an open fire on property unless he/she has the legal right to possession of that property.

K. The Fire Marshall or other authorized officer, agent, employee or representative of the Borough, who presents credentials, may inspect any property for the purpose of ascertaining compliance with the provisions of this Part. If the Fire Marshall or other authorized officer, agent, employee or representative of the Borough determines that the fire is not in compliance with the provisions of this Part or is otherwise a nuisance or safety hazard the authorized officer, agent, employee or representative of the Borough may order that the fire be immediately extinguished.

L. All open burning is strictly prohibited at all times when an ozone warning is in effect.

(Ord. 413, 11/13/2013, Art. II, §2)

§10-504. Open Burning of Refuse Is Prohibited.

Refuse shall include any waste material, including building supplies, garbage, grass, leaves, cardboard boxes, plastics, household waste or noxious materials. It shall not include trees, logs and stumps.

(Ord. 413, 11/13/2013, Art. II, §3)

§10-505. Enforcement.

Those identified in §10-503.K of this Part shall have the power to prohibit open burning if such burning is contrary to the provisions of this Part or the 2006 International Fire Code, as amended.

(Ord. 413, 11/13/2013, Art. II, §4)

§10-506. Penalties.

Any person or entity found to be in violation of this Part shall be subject to a civil fine in the amount of \$600 for each violation.

(Ord. 413, 11/13/2013, Art. II, §5)