

Chapter 10

Health and Safety

Part 1

Dangerous Structures

- §10-101. Dangerous Conditions Prohibited
- §10-102. Inspection of Dangerous Conditions Required
- §10-103. Notice of Dangerous Conditions
- §10-104. Service of Notice
- §10-105. Borough May Repair If Owner Neglects or Fails
- §10-106. Penalty
- §10-107. Definition
- §10-108. Joint and Several Liability
- §10-109. Equitable Remedies Preserved

Part 2

Nuisances

- §10-201. Short Title
- §10-202. Definitions
- §10-203. Nuisances
- §10-204. Abatement of Nuisances
- §10-205. Penalty for Violation

Part 3

Air Pollution Control

- §10-301. Title
- §10-302. Policy
- §10-303. Definitions
- §10-304. Enforcement
- §10-305. Regulations
- §10-306. Penalties

Part 4

Outdoor Fuel Burning Furnaces

- §10-401. Definition
- §10-402. Prohibition
- §10-403. Penalties
- §10-404. Grandfather Clause
- §10-405. No Replacement

Part 5

Snow Removal

- §10-501. Responsibility for Removal
- §10-502. Ability of Borough to Cure Delinquent Snow Removal
- §10-503. Penalties

Part 1**Dangerous Structures****§10-101. Dangerous Conditions Prohibited.**

From and after the effective date of this Part, it shall be unlawful for any person to maintain or allow any building or structure within the Borough of Lewisberry, York County, Pennsylvania, or any portion thereof, to exist in a dangerous condition. For the purposes of this Part the term “dangerous condition” shall be any condition which threatens or interferes with the health or safety of persons beyond the boundaries of the property on which the building or structure is located.

(Ord. 1989-2, 8/7/1989, §1)

§10-102. Inspection of Dangerous Conditions Required.

Whenever it shall be reported to the Borough Council that any building or structure is in a dangerous condition, the Borough Council shall direct the Borough building inspector to investigate and make an examination of the structure or building. If such an investigation or examination indicates that the structure is in a dangerous condition, the Borough building inspector shall report the same to the Borough Council, specifying the condition of the structure or building and setting forth specifically the dangerous condition, and recommending to the Borough Council what would be necessary to eliminate the dangerous condition.

(Ord. 1989-2, 8/7/1989, §2)

§10-103. Notice of Dangerous Conditions.

If it is determined by the Borough Council that a building or structure is in a dangerous condition, Borough Council shall cause written notice to be served upon the owner, and equitable owner if any, requiring such owner to commence repair or removal of such building or structure within 10 days from the date of such notice and to complete the repair or removal within 30 days thereof. Provided, in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure instead of making the repairs thereto, so long as the removal is completed within the aforesaid time limit.

(Ord. 1989-2, 8/7/1989, §3)

§10-104. Service of Notice.

The notice required by the above §10-103 of this Part shall be served personally upon the owner or equitable owner of a structure if such owner resides in the Borough or upon the agent of such owner if such agent has a residence or place of business within the Borough. If neither the owner nor the agent can be served within the Borough as provided herein, such notice shall be sent to the owner of the structure by first-class United States mail at the owner’s last known address and such notice shall be posted upon the structure or building.

(Ord. 1989-2, 8/7/1989, §4)

§10-105. Borough May Repair If Owner Neglects or Fails.

Any person who is the owner of any building or structure in dangerous condition who fails to repair or remove such structure or building within the time limits as set forth in the notice to the owner, Borough Council shall be empowered to cause such repair or removal to be commenced and completed by the Borough, and the cost and expense thereof, together with a penalty of 10 percent, shall be collected from the owner or equitable owner of such structure in the manner provided by law. The recovery of any such costs and expenses as set forth in this Section may be in addition to any other penalty imposed by this Part.

(Ord. 1989-2, 8/7/1989, §5)

§10-106. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$50 nor 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 or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 1989-2, 8/7/1989, §6; as amended by Ord. 2007-2, 12/17/2007)

§10-107. Definition.

The term “person” shall mean and include any natural person, partnership, association, corporation, or other business entity.

(Ord. 1989-2, 8/7/1989, §7)

§10-108. Joint and Several Liability.

The legal owner, and equitable owner if any, shall be jointly and severally responsible for compliance with this Part and liable for any penalty imposed by this Part. Any reference to “owner” in this Part shall mean the legal owner and equitable owner, if any.

(Ord. 1989-2, 8/7/1989, §8)

§10-109. Equitable Remedies Preserved.

The application of any fine or penalty under this Part shall not be construed so as to prevent the Borough from enforcing removal of prohibited conditions by any other legal or equitable action.

(Ord. 1989-2, 8/7/1989, §9)

Part 2**Nuisances****§10-201. Short Title.**

This Part shall be known as the “Lewisberry Borough Nuisance Ordinance.”
(*Ord. 1986-6, 12/1/1986, §1*)

§10-202. Definitions.

Borough - the Borough of Lewisberry, York County, Pennsylvania.

Nuisance - any conduct or any condition or any use of a premises or of a building or buildings situate on premises which is specifically set forth hereinafter or which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

Person - as used in this Part shall mean a natural person, partnership, association, firm, or corporation.

The singular shall include the plural and any gender shall include all genders.
(*Ord. 1986-6, 12/1/1986, §2*)

§10-203. Nuisances.

Nuisances shall include, but not be limited to or expressly restricted to, the following:

A. Any person, owner of property, occupant, or agent of any owner or occupant of property within the Borough permitting the property to become unsanitary or become a fire menace by allowing the accumulation of flammable material upon the said premises in an unsafe and unprotected manner.

B. Any person, owner of property, occupant of property or agent of owner or occupant of property permitting weeds or grasses to grow upon the property in excess of 10 inches in height or to allow any vegetation as defined in the Commonwealth of Pennsylvania Noxious Weed Control Law, 3 P.S. §255.8, to grow upon the premises.

C. Any person, owner of property, occupant of property or agent of any owner or occupant of property within the Borough permitting pools of water to accumulate and remain upon any premises and become stagnant and foul.

D. Any person, owner of property, occupant of property or agent of any owner or occupant of property within the Borough permitting junk, disabled vehicles, waste material, lumber scraps, old lumber, garbage, scrap paper, bricks, stones, concrete blocks, cinder blocks, roofing material, metal scraps, vegetation or other waste material to accumulate and remain upon a premises as a fire hazard, or as a harborage for insects, snakes, rats, or other vermin.

E. Any person who shall cause, make, or create any noise which shall disturb the peace and quiet of the neighborhood or which shall disturb or annoy persons in

the neighborhood who are of ordinary sensibilities.

(*Ord. 1986-6, 12/1/1986, §3*)

§10-204. Abatement of Nuisances.

1. Whenever any nuisance as defined by this Part shall exist and shall come to the knowledge of the Borough Council, the Borough Council may direct the appropriate Borough official to cause a written notice identifying such property and nuisance to be issued to the person responsible for such nuisance. Such notice shall be addressed to such person at that person's post office address or by publication two times within 10 consecutive days if the person's address is not known, and such notice shall direct the abatement of such nuisance within 10 days from the date of the notice.

2. Such notice shall set forth that in the event the person should fail to abate the nuisance the Borough may at once cause the same to be abated and charge the cost and expense incurred in abating the nuisance to the person and, where such nuisance involves real estate, to cause the same to become a lien against the said property as permitted by the Borough Code, 53 P.S. §65501 *et seq.*

3. In the event such person refuses or fails to cause such nuisance to be abated in the time provided herein, the Borough Council may have the nuisance abated in a reasonable and prudent manner and the cost of abating such nuisance shall be charged against the person causing the nuisance. It is hereby provided that such costs charged to such person causing the nuisance shall include general overhead of administrative expenses of inspection, locating the owner, issuing a notice, reinspection, ordering work done, actual work done, labor incurred, together with all necessary incidence of the same and direct costs. Notwithstanding the aforesaid any costs shall include a minimum charge in an amount as established, from time to time, by resolution of Borough Council for administrative expenses. Such expenses, at the direction of Borough Council, shall be collected from such person in accordance with law, including the same being entered as a municipal lien against the property where such nuisance involved real estate provided the owner was given notice of the nuisance, together with 10 percent penalty and 10 percent for attorney's fees, together with interest and court costs. [*Ord. 2007-2*]

4. In addition to the remedies prescribed by this Section, and cumulative thereto, if a nuisance or nuisances exist and if it shall be brought to the attention of Borough Council and if it shall be determined that such nuisance or nuisances are likely to have an immediate adverse effect on the public health, comfort or safety, then and in that event, the Borough Council may, by appropriate resolution or motion, order such nuisance or nuisances summarily be abated by the Borough in a reasonably prudent manner.

5. The Borough may proceed with an action at law or in equity to require the abatement of the nuisance and the Borough proceeding with such legal action shall not prohibit the Borough from seeking to impose other penalties prescribed by this Part or from seeking summarily abatement of a nuisance as set forth above.

(*Ord. 1986-6, 12/1/1986, §4; as amended by Ord. 2007-2, 12/17/2007*)

§10-205. Penalty for Violation.

In addition, or separate from, the action for abatement of a nuisance as set forth

in §10-204, any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not less than \$25 nor 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 or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 1986-6, 12/1/1986, §5; as amended by Ord. 2007-2, 12/17/2007)

Part 3**Air Pollution Control****§10-301. Title.**

This Part shall be known and may be cited as the “Lewisberry Borough Air Pollution Control Ordinance of 1969.”

(*Ord. 1969-1, 1/6/1969, §I*)

§10-302. Policy.

Whereas the Council of the Borough of Lewisberry has determined that air pollution from an open fire may be detrimental to the health, comfort, living conditions, welfare and safety of the citizens of the Borough of Lewisberry, it is hereby declared to be the policy of the Borough of Lewisberry to safeguard the citizens of Lewisberry Borough from such air pollution.

(*Ord. 1969-1, 1/6/1969, §II*)

§10-303. Definitions.

The following words, terms and phrases, when used in this Part, unless the context clearly indicated otherwise, shall have the following meanings ascribed to them:

Board - Board of Health.

Council - Borough Council.

Furnace - any enclosed device specifically designed for the burning of any material for the production of heat.

Garbage - all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

Incinerator - any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material and whose size and location has been approved by the Board of Health or Borough Council.

Open fire - a fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

Person - any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law as the subject of rights and duties.

Refuse - garbage, rubbish and trade waste.

Rubbish - solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

Salvage operation - any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material including, but not limited to, metals, chemicals, shipping containers or drums.

Trade waste - all solids or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, however, that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

(Ord. 1969-1, 1/6/1969, §III)

§10-304. Enforcement.

The Lewisberry Chief of Police, Fire Chief, Health Officer, or any other duly authorized agent shall have the power and duty to enforce the provisions of this Part.

(Ord. 1969-1, 1/6/1969, §IV)

§10-305. Regulations.

After March 1, 1969, no person shall:

A. Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside of any building.

B. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse or in the conduct of a salvage operation on any property under his control outside of any building.

C. *Exceptions.*

(1) Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:

(a) The prevention of a fire hazard which cannot be abated by other means.

(b) The protection of public health.

(2) Open fires may be set with the approval of the authorized enforcement agents of this Part provided:

(a) Rubbish only is burned.

(b) There is no practical available alternate method for the disposal of the material to be burned.

(c) No hazardous or other objectionable condition will be created by such burning.

(3) Open fires may be set between the hours of 6 a.m. and 5 p.m. on Saturday providing no hazardous or other objectionable condition will be created by such burning.

(Ord. 1969-1, 1/6/1969, §V)

§10-306. Penalties.

Any person violating any of the provisions of this Part, upon the conviction thereof by any magisterial district judge, shall be sentenced to pay a fine of not less than \$25 nor 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 or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 1969-1, 1/6/1969, §VI; as amended by Ord. 2007-2, 12/17/2007)

Part 4**Outdoor Fuel Burning Furnaces****§10-401. Definition.**

Outdoor fuel burning furnace - any device or appliance located outside an inhabited structure and used to burn combustible materials or fuel for the purpose of generating heat inside the inhabited structure.

(*Ord. 2006-2, 11/6/2006, §1*)

§10-402. Prohibition.

All outdoor fuel burning furnaces not already in existence upon the effective date of this Part are hereby prohibited within the Borough of Lewisberry.

(*Ord. 2006-2, 11/6/2006, §2*)

§10-403. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$25 nor 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. Every day that a violation of this Part continues, shall constitute a separate offense. The fines and penalties set forth herein may be revised from time to time by resolution.

(*Ord. 2006-2, 11/6/2006, §3; as amended by Ord. 2007-2, 12/17/2007*)

§10-404. Grandfather Clause.

This Part shall not be construed to be retroactive and shall not require the removal of any outdoor fuel burning furnace in existence within the Borough at the effective date of this Part. All outdoor fuel burning furnaces in existence at the effective date of this Part shall have or must erect a flue or chimney which has a minimum termination height of 20 feet above the natural ground level upon which the furnace is located, and must be maintained in such condition so as not to expel smoke into or upon any living space of any inhabited structure within the Borough of Lewisberry. All such pre-existing outdoor fuel burning furnaces must come into compliance within 60 days of the effective date of this Part.

(*Ord. 2006-2, 11/6/2006, §4*)

§10-405. No Replacement.

No outdoor fuel burning furnace that is or becomes more than 50 percent torn down, physically damaged, deteriorated or decayed may be replaced or rebuilt. In such event the outdoor fuel burning furnace must cease operation and be completely removed from the property by and at the expense of the owner. Any replacement, rebuilding or restoration of said outdoor fuel burning furnace shall be a violation of this Part.

(*Ord. 2006-2, 11/6/2006, §5*)

Part 5**Snow Removal****§10-501. Responsibility for Removal.**

The owner, occupant(s) and/or tenant(s) of every property located within the Borough of Lewisberry shall remove or cause to be removed all snow, ice, hail and/or sleet falling, forming or placed upon any sidewalk located within any Borough right-of-way adjacent to the owner's property or any sidewalk located on the owner's property which provides access to the general public across any part of said property within 24 hours. Snow may not be placed on the streets. The liability of the owner to perform the requirements of this Section shall not be based upon the owner's occupancy of the property, and, on the contrary, the owner shall be liable for compliance with this Section even though the owner is not in possession.

(Ord. 2009-3, 5/4/2009)

§10-502. Ability of Borough to Cure Delinquent Snow Removal.

The Borough may remove snow, ice, hail and/or sleet upon default of property owner. In any case where the owner, occupant or tenant, as aforesaid, shall fail, neglect or refuse to comply with any of the provisions of §10-501 of this Part within the time limit prescribed therein, the Borough authorities may proceed immediately to clear all snow and/or ice, hail and sleet from the sidewalk of such delinquent, and to collect the expenses of such removal, with any additional amounts allowed by law, from such owner, occupant or tenant, as the case may be, which shall be in addition to any fine or penalty imposed under §10-503.

(Ord. 2009-3, 5/4/2009)

§10-503. Penalties.

Any owner, occupant or tenant who shall fail to remove any snow, ice, hail and/or sleet from any sidewalk as required by §10-501 of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$25 nor more than \$1,000 and costs of prosecution, or, in default of payment of such fine and costs, to undergo imprisonment of not more than 30 days. Every day that a violation of this Part continues shall constitute a separate offense. The fines and penalties set forth herein may be revised from time to time by resolution.

(Ord. 2009-3, 5/4/2009)

