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PART 1

WEEDS AND GRASS

§8-101. Height

It shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding 12 inches anywhere in the Borough; any such plants or weeds exceeding such height are hereby declared to be a nuisance. It shall be unlawful for any person to permit any weeds, grass, plants, trees, bushes, flowers or other ornamental plants to obstruct any stop sign or any other official sign erected by the Borough to control parking or traffic.

(Ord. 326, 8/28/1972, §2)

§8-102. Sidewalks

It shall be unlawful for any owner or occupant of property abutting and public sidewalk to permit any grass or weeds to grow in the sidewalk.

(Ord. 607, 9/23/2013)

§8-103. Barberry Bushes

It shall be a nuisance and unlawful to plant or permit the growth of the bush of the species of tall, common European barberry, further known as *Barberis vulgaris* or its horticultural varieties within the Borough.

(Ord. 326, 8/28/1972, §3)

§8-104. Removal; Notice

It shall be the duty of the Chief of Police to serve or cause to be served a notice upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this Part and to demand the abatement of the nuisances within 10 days.

(Ord. 326, 8/28/1972, §4)

§8-105. Abatement

If the person so served does not abate the nuisance within 10 days, the Borough may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

(Ord. 326, 8/28/1972, §5)

§8-106. Subsequent Violations

No additional notice(s) shall be required for future occurrences of the same violation. If a nuisance specific to weeds, grass or plants recurs on the same property within the same calendar year, the Borough may immediately proceed, without additional notice, to abate such nuisance in

the same manner as provided for in §8-104. The Borough may establish a reasonable minimum fee for such abatement service.

(Ord. 326, 8/28/1972; as added by Ord. 527, 10/24/2005)

§8-107. Lien

Charges for such weed removal shall be a lien upon the premises. Whenever a bill for such charges remain unpaid for 60 days after it has been rendered, the Borough Solicitor may file with the Prothonotary of Cambria County a description of the premises, the expenses and costs incurred and the date the weeds were cut, and a notice that the Borough claims a lien for this account.

(Ord. 326, 8/28/1972, §6; as amended by Ord. 455, 10/28/1996; and by Ord. 527, 8-24/2005)

§8-108. Foreclosure of Lien

Property subject to a lien for unpaid weed cutting charges shall be sold for nonpayment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the Borough of Ebensburg.

(Ord. 326, 8/28/1972, §7; as amended by Ord. 527, 8-24/2005)

PART 2
NOISE CONTROL

§8-201. Short Title

This Part may be cited as the "Noise Control Ordinance of the Borough of Ebensburg."

(Ord. 460, 3/24/1997, §1)

§8-202. Findings; Purpose

- A. Excessive noise is a serious hazard to the public health and welfare and the quality of life.
- B. A substantial body of science and technology exists by which excessive noise may be substantially abated.
- C. The people have a right to and should be ensured an environment free from excessive noise that may jeopardize their health or welfare or degrade the quality of life.
- D. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy and the provisions and prohibitions hereinafter contained and enacted are in pursuant of and in pursuant of and for the purpose of securing and promoting the public health, comfort, convenience, safety and welfare and the peace and quiet of the inhabitants of the Borough.
- E. It is the policy of the Borough to regulate excessive noise which may jeopardize the health or welfare of its citizens or degrade the quality of life.

(Ord. 460, 3/24/1997, §1)

§8-203. Definitions

COMMERCIAL AREA – any area zoned for commercial uses, as defined in the Zoning Ordinance [Chapter 27].

CONSTRUCTION – any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

CONTINUOUS AIRBORNE SOUND or CONTINUOUS SOUND – sound that is measured by a fast response setting of sound level meter.

CONTINUOUS SPAN RACE COURSE – those courses or tracks which are formed by a continuous span of concrete, asphalt, clay, soil or other surface with no visible beginning or end, whether such a course or tract is circular, elliptical or in any other shape.

DBA – the measured sound level expressed in decibels when using the "A" weighted network of sound level meter.

DEMOLITION – any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

EMERGENCY – any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or interruption of utility services which demands immediate action.

MOTOR VEHICLE – any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles. Motor vehicles shall also mean a vehicle defined as a motor vehicle under 75 Pa.C.S.A. §102. Such definition shall include, but not be limited to, all vehicles propelled otherwise than by muscular power except motorized bicycles as defined in 75 Pa.C.S.A. §102.

MOTORBOAT – any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hovercraft.

MOTORCYCLE – an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground including, but not limited to, motor scooters and mini-bikes.

MOTORSPORTS – any activity involving the operation of any motor vehicle including, but not limited to, any motor vehicle as defined by the Pennsylvania Vehicle Code, motorcycle, snowmobile, mini-bike, go-cart, dune buggy, or "all terrain" vehicle, when operated off public rights-of-way in races, competitions or other similar events.

NOISE – any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE – any sound which (A) endangers or injures the safety or health of humans, domesticated animals or pets, (B) any noise level restrictions as established by this Part or (C) endangers or injures personal or real property.

NOISE EMISSION STANDARD – the maximum permissible sound.

NOISE SENSITIVE ZONE – any area designated by the Borough Council by ordinance, for the purpose of ensuring exceptional quiet within 100 feet of the property boundaries of uses such as, but not limited to, schools, houses of worship, libraries, hospitals, nursing homes, mortuaries and cemeteries. All such zones shall be posted with appropriate warning signs.

POWERED MODEL VEHICLE – any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designated to carry persons including, but not limited to, any model airplane, boat, car or rocket.

PROMOTER – any person organizing or sponsoring a motorsport.

PUBLIC RIGHT-OF-WAY – any street, avenue, boulevard, highway, sidewalk or alley or similar place of which is owned or controlled by a governmental entity or which is on private property on which motor vehicle laws are enforced pursuant to 75 Pa.C.S.A. §101 et seq.

PUBLIC SPACE – any real property or structure thereon which are owned or controlled by a governmental entity.

QUIET HOURS -

- A. Sunday through Friday before 7:00 a.m. and after 9:00 p.m.
- B. On Saturdays before 7:00 a.m. and after 10:00 p.m.

RACING SURFACE – that portion of the racecourse on which the motor vehicles actually race.

REAL PROPERTY BOUNDARY – any imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

RESIDENTIAL AREA – any zoned area for residential uses as defined in the Zoning Ordinance [Chapter 27].

SOUND – an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

SOUND LEVEL METER – the instrument officially designated for measuring noise and sound level.

VEHICULAR NOISE LEVEL – the total amount of noise generated at any time during a motor sport by the motor vehicles participating in that motor sport.

WEEKDAY – any day Monday through Friday which is not a legal holiday.

(Ord. 460, 3/24/1997, §3)

§8-204. Prohibited Acts

- A. Noise Disturbances Prohibited. No person shall make, continue or cause to be made or continued any disturbance.
- B. Specific Prohibitions. The following acts, and the causing thereof, are declared to be in violation of this Section:

1. Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone.
2. Loud Speakers/ Public Address Systems, Using or operating any loudspeaker, public address system or similar device such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone with the exception of a single purpose public auction not conducted during quiet hours.
3. Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.
4. Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive area.
5. Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work, during quiet hours, so that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for work by public works crews or private construction crews pursuant to a public works contract, utilities repair crews or emergency response personnel and except as so provided under §8-208, hereof.
6. Vehicle and Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
7. Powered Model Vehicles. Operating or permitting the operating of a powered model vehicle so as to create a noise disturbance across residential property boundary, in a public space or within a noise sensitive zone.
8. Noise Sensitive Zones
 - a. Creating or causing the creation of any sound within any noise sensitive zone designated pursuant to §8-203 so as to disrupt the activities normally conducted within the zone.
 - b. Creating or causing the creation of any sound within any noise sensitive zone, designated pursuant §8-203, containing a hospital, nursing home or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity.

§8-205. Noise Emissions

- A. Standard. Noise shall be measured with a sound level meter which complies with the standards of the American National Standards Institute. "American Standards Specifications for General Purpose Sound Level Meters" (ANSIS 1.4-1961 or its latest revisions). The instruments shall be set to the A-weighted response scale and the meter to the slow response.
- B. General Noise Emission Standards. Noises shall not exceed the maximum sound levels specified in the table except as designated below:

GENERAL NOISE EMISSION STANDARDS (NES)

Performance Category Measured	Maximum Level Permitted	Where
All properties	55 DBA	On or beyond the neighboring use or lot line

- C. Hour Restrictions. In any residential district, the A-weighted sound levels shall not exceed 45 DBA during the hours from 9:00 p.m. to 7:00 a.m. Whenever a residential district abuts any other district, the most restrictive of the limitations shall apply.
- D. Exclusions and Permitted Variations.
 - 1. The levels specified in subsection (B) may be exceeded once by 10 Db in a single period of 15 minutes, during 1 day.
 - 2. Peak values of short duration also known as impact noises may exceed the values specified in the table in subsection (B) by 20 Db or have a maximum noise level of 75 DBA, whichever is more restrictive.

(Ord. 460, 3/24/1997, §5)

§8-206. Motor Vehicles and Motorcycle or Other Race Course/Motorsports

- A. Noise Emission Standards. The following noise emission standards (NES) shall apply for motor vehicles or motorcycles racing on racecourses and/or in motorsports:

NOISE EMISSION STANDARDS (NES)

Maximum Noise Level Limit (DBA)	Maximum Time Duration During Any 4 Hour Period at that DBA
78	14.4 seconds
75	72.0 seconds
70	6.67 minutes
68	14.4 minutes
66	31.9 minutes

64	53.3 minutes
62	79.9 minutes

To be measured at any residential real property boundary.

- B. Exceeding Noise Emission Standard. No person shall at any time run or cause to be run any motorsport on any race course within the Borough the vehicular noise level of which exceeds the NES set forth in subsection (A).
- C. Permits
 - 1. No motorsports event shall be conducted within the Borough without a permit. The promoter or any person wishing to conduct a motorsports event shall apply for a permit with the Borough. The grant of a permit shall not be unreasonably withheld by the Borough. Motorsports shall only be conducted by the promoter within the area designated by the permit and shall be limited to those types of motor vehicles identified in the permit. The permit shall be for a term of 1 year and shall be renewable each year upon application and payment of the then applicable fee. The Borough may deny renewal of any permit in the event that there exists outstanding prior violations or penalties or for failure to pay amusement taxes at the time of the application. A permit will be revoked if any fines are not paid within 7 days.
 - 2. The Borough shall be entitled to charge an annual application fee for the permit, which fee may be adopted from time to time in accordance with other permit fees charged by the Borough.
 - 3. No permit shall be issued, and any permit issued shall be revoked or suspended at the determination of Borough Council, unless the permittee, a policy or policies of liability insurance with a company or companies approved by the Council with limits not less than \$1,000,000 protecting and insuring the permittee from liability for personal injuries and property damage resulting from the ownership, use or operation of the racecourse and/or the operation of any motorsports to be covered by the permit. The permittee, by application for and/or acceptance of any permit, shall be conclusively deemed to have agreed to indemnify the Borough and its agents, servants and representatives from all liability including personal injuries and property damage arising out of the existence, use, ownership or operation of any racecourse or motorsports covered by the permit, and such indemnity agreement shall be expressly covered in said policy or policies of insurance.
 - 4. Any person operating a racecourse covered by a permit issued by the Borough shall allow Borough officials, or their designated representatives, to conduct from time to time such noise level tests or readings that may be deemed appropriate and necessary by the Borough of Ebensburg or their authorized agents.
- D. Submission of Schedule. At least 7 days prior to any day upon which motorsports are to be held within the Borough, the promoter shall submit to the Borough Manager a schedule indicating estimated times of beginning and completion of any motorsport to be held.

- E. Times of Races; Permission Required. Motorsports may be held on Friday or Saturday only. No race shall start before 1:00 p.m. nor end after 10:00 p.m. without special permission of the Borough Council.

(Ord. 460, 3/24/1997, §6)

§8-207. Enforcement

A. Penalties

1. Any person, firm or corporation who shall violate any provision of §§8-204, 8-205 or 8-206 of this Part, shall be, upon conviction thereof, sentenced to pay a fine of not more than \$250 for the first offense, \$300 for the second offense and \$1,000 for each subsequent offense plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. [Ord. 494]
2. Any person, firm or corporation who willfully or knowingly violates any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not less than \$250 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. [Ord. 494]
3. Each day that a violation of any provision of this Part shall constitute a separate offense. With respect to any violation involving motorsports, nor more than one violation shall be deemed to occur during each individual race, individual competition, event and/or heat. More than one violation can occur on an individual day.

- B. Other Remedies. No provision of this Part shall be construed to impair any common law or statutory cause of action or legal or equitable remedy of any person for injury or damage arising from any violation of this Part or from other law.

- C. Enforcement. The Borough Manager shall provide for the enforcement of the Part by Borough personnel or persons authorized by the Borough trained in the use of noise measurement equipments.

- D. Proof of Exceeding Noise Emission Standard Required. No person shall be charged with exceeding the NES except on proof of a measurement of noise level made in accordance with the procedures promulgated pursuant to §§8-205 and 8-206 above.

(Ord. 460, 3/24/1997, §7; as amended by Ord. 494, 11/27/2000)

§8-208. General Exclusion and Exemptions

Nothing in this Part shall be deemed to regulate:

- A. Any activity undertaken by any governmental agency and/or for public health and safety.
- B. Any activity undertaken by an emergency repair service restoring vital services on an emergency basis.

- C. Noises such as alarms, sirens, emergency warning devices or the testing thereof, motor vehicles and other sources not under the direct control of property owner or user are excluded from the above limitations.
- D. The use of chimes or other devices as used by houses of worship.
- E. Necessary snow or garbage removal activities.
- F. Public activities:
 - 1. Public festivals, fairs, bazaars, celebrations sponsored by local civic, religious or nonprofit organizations which are less than 8 days in duration and which have received the requested operating permit from the Borough are exempt from the requirements or restrictions of this Part.
 - 2. Parade or public demonstrations or other bona fide public events.
- G. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or tractor, lawn mower, leaf blower, snow blower or similar device used outdoors in residential areas except during designated hours.

(Ord. 460, 3/24/1997, §8)

PART 3

STORAGE OF VEHICLES

§8-301. Definitions

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 streets or highways, and including trailers or semi-trailers pulled thereby.

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

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.

(Ord. 511, 4/28/2003, §1)

§8-302. Motor Vehicle Nuisances Prohibited

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the Borough of Ebensburg. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges including holes resulting from rust.

- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken headlamps or tail lamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floorboards including trunk and firewall.
- O. Damaged bumpers pulled away from the perimeter of vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennae.
- S. Suspended on unstable supports.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough of Ebensburg.

(Ord. 511, 4/28/2003, §1)

§8-303. Storage of Motor Vehicle Nuisances Permitted

- A. Any person, owner or lessee who has one or more motor vehicle nuisances as defined in §8-302 above may store such vehicle(s) within a garage or other enclosed building or, outside within an opaque fence at least 6 feet high which is locked at all times when unattended.
- B. With the special approval of the Ebensburg Borough Council motor vehicle 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, 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 nuisance may not exceed 300 square feet.

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

(Ord. 511, 4/28/2003, §1)

§8-304. Inspection of Premises; Notice to Comply

- A. The Ebensburg Borough Police Department is hereby empowered to inspect private property on which motor vehicles are stored to determine if there is compliance with the provisions of the 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.
- B. 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. 511, 4/28/2003, §1)

§8-305. Authority to Remedy Noncompliance

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the nuisance, within the time limit prescribed, the Borough of Ebensburg shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs. The Borough of Ebensburg, 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. 511, 4/28/2003, §1)

§8-306. Hearing

Any person aggrieved by the decision of the Ebensburg Borough Police Department may request and shall then be granted a hearing before the Ebensburg Borough Council; provided, he files with the Ebensburg Borough Council within 10 days after notice of the Police Department's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause. After such hearing the Ebensburg Borough Council shall sustain, modify or overrule the action of the Police Department.

(Ord. 511, 4/28/2003, §2)

§8-307. Penalties

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment

for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 511, 4/28/2003, §3)

§8-308. 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 Ebensburg Borough Council.

(Ord. 511, 4/28/2003, §4)

PART 4

STORAGE OF MACHINERY AND EQUIPMENT

§8-401. Definitions

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 Ebensburg.

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.

(Ord. 511, 4/28/2003, §1)

§8-402. Storage of Nuisance Prohibited

It shall be unlawful for any person to store or maintain abandoned, unused, stripped, damaged and generally unusable appliances, machinery or equipment, or construction materials in the open on private property. Such storage shall constitute 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. Containers which are conducive to the harboring and growth of vermin or animals.
- 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. Containers of 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 shall threaten the health, safety or welfare of the citizens.
- F. Refrigerators with the doors remaining attached.

(Ord. 511, 4/28/2003, §1)

§8-403. Storage Requirements

- A. Storage of such items as listed in §8-402 hereof on private property shall be permitted only in strict compliance with the regulations provided herein or with stricter regulations in other Ebensburg Borough ordinances, or in State or Federal laws. Such nuisance(s) must be stored within a garage or other enclosed building or, outside, within an opaque fence at least 6 feet high which is locked at all times when unattended.
- B. With the special approval of 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 appliance, machinery, equipment or constructions 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 nuisances may not exceed 100 square feet.
- C. Nothing herein shall be construed to permit the storage of appliance, machinery, equipment or material nuisances contrary to the provisions of the Ebensburg Borough Zoning Ordinance [Chapter 27].

(Ord. 511, 4/28/2003, §1)

§8-404. Inspection of Premises; Notice to Comply

- A. The Borough Police Department is hereby empowered to inspect private property on which appliances, machinery, equipment and/or various construction 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 danger 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.
- B. 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. 511, 4/28/2003, §1)

§8-405. Authority to Remedy Noncompliance

If the owner of property on which appliance, machinery, equipment and/or construction materials are stored does not comply with the notice to abate the nuisance, within the time limit prescribed, the Borough of Ebensburg shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs. The Borough of Ebensburg, 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. 511, 4/28/2003, §1)

§8-406. Hearing

Any person aggrieved by the decision of the Ebensburg Borough Police Department may request and shall then be granted a hearing before the Ebensburg Borough Council; provided, he files with the Ebensburg Borough Council within 10 days after notice of the Police Department's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause. After such hearing the Ebensburg Borough Council shall sustain, modify or overrule the action of the Police Department.

(Ord. 511, 4/28/2003, §2)

§8-407. Penalties

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

§8-408. 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 Ebensburg Borough Council.

(Ord. 511, 4/28/2003, §4)

PART 5

VECTOR CONTROL PROGRAM

§8-501. Definitions

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

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 – water 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.

COVERED RECEPTACLE – a container of metal, wood, heavy-duty plastic or synthetic material of solid construction, with a tight-fitting cover secured against wind and leakage.

DEP – Department of Environmental Protection, Commonwealth of Pennsylvania.

DILAPIDATED – fallen into partial ruin or decay.

DISPOSAL – 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 food.

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; in dwelling units a guest will be considered an occupant.

OWNER – any person who, alone or jointly or severally with others shall have:

- (1) Legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof.
- (2) 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 thereto, to the same extent as if he were the owner.

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

REFUSE – all solid wastes, except human body wastes, and including handling of refuse.

RUBBISH – glass, metal, paper, plant growth, wood or nonputrescible solid wastes.

VECTOR – a rodent, arthropod or insect capable of transmitting a disease or infection including, but not limited to, rats, mosquitoes, cockroaches, flies and ticks.

VECTOR-PROOFING – a form of construction to prevent ingress or egress of vectors to or from a given space or building or gaining access to food, water or harborage including, but not limited to, rat-proofing and mosquito-proofing.

(Ord. 511, 4/28/2003, §1)

§8-502. Prohibited Acts

It shall be unlawful:

- A. For any person to deposit or to knowingly permit any person acting as agent, employee or servant of said person 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 the same shall or may afford food, harborage or breeding areas for vectors.
- B. For any person to deposit or permit to accumulate in or upon any premises, 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 covered receptacles or placed on open racks that are elevated not less than 18 inches above the ground, and evenly piled or stacked; or unless disposed of in a manner approved by DEP.
- C. To maintain a junkyard or a place for the dumping or wrecking or disassembling of 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, in such a manner as to afford harborages or breeding areas for vectors.

- D. To store refuse in containers other than covered receptacles, which shall be kept clean by rinsing and draining as often as necessary so as not to provide food or breeding areas for vectors.
- E. To dump, burn, bury, destroy or otherwise dispose of refuse except at an approved refuse disposal site.
- F. To collect, haul, transport or convey garbage in open, unenclosed, non-leakproof vehicles.
- G. 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.
- H. To have, keep, maintain, cause or permit any collection of standing or flowing water except for agricultural or industrial purposes 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. 511, 4/28/2003, §1)

§8-503. Responsibilities of Owners and Occupants

- A. Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof, in such a manner as to prevent breeding areas and harborages for vectors.
- B. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for extermination within his dwelling unit. 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 or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(Ord. 511, 4/28/2003, §1)

§8-504. Vector-Proofing

- A. Any dwelling, building, structure, accessory structure, premises or any other place shall be required to be vector-proofed when found to provide harborage or breeding areas for vectors, upon written notice at least 10 days prior to an inspection thereof.
- B. 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.

- C. Within 10 days after notice the owner may petition for a hearing by the Borough Council with an opportunity for him to be present, to cross-examine witnesses, and to receive a written decision to be rendered within 30 days after the hearing. An appeal of this decision may be filed with a court of competent jurisdiction in accordance with the rules of civil procedure.

(Ord. 511, 4/28/2003, §1)

§8-505. Private Vector Control Programs

A program plan and specifications for private vector control programs shall be required to be submitted by the owner to the Borough of Ebensburg upon determination of the necessity by the Police Department or Codes Enforcement Officer. Said determination shall be served on the owner personally or by certified mail. Within 10 days of said service the owner may contest the necessity of the program by requesting a hearing to be conducted in accordance with §8-504 of this Part. Said program plan shall be submitted by the owner to the Borough Council within 30 days of notice. The program plan shall state the type of vectors to be controlled, the name of the company contracted to carry out the program, if any, and any and all work to be conducted in an effort to control said vectors. The Police Department or Codes Enforcement Officer shall review the program plan. If the plan is found to be inadequate or incomplete, additional information may be required as well as additional control methods. The owner may request a hearing on the determination in accordance with §8-504 of this Part.

(Ord. 511, 4/28/2003, §1)

§8-506. Authority to Abate Vector Problems

- A. From and after passage of this Part, the Borough and/or representative of the vector control program is empowered to make periodic inspections of the interior and exterior of all dwellings, buildings, structures and accessory structures, premises, collections of water, or any other place to determine full compliance with this Part, and to determine evidence of vector infestation and the need for vector-proofing or additions or repairs to existing vector-proofing.
- B. Whenever it shall be determined by the Borough Council that any dwelling, building, structure, accessory structure, premises, collection of water, or any other place is in violation of this Part, a notice shall be issued setting forth the alleged violation(s), and advising the owner, occupant, operator or agent that such violations(s) must be corrected. The time for the correction of said violation(s) must be given as well as the necessary methods to be employed in the correction.
- C. Whenever any violation(s) shall fail to be corrected within the time set forth, and an extension of time is not deemed to be necessary, the Borough may proceed to abate the violation(s) in the manner provided by law.
- D. The owner shall have the right to appeal from said determination by a hearing in accordance with §8-504 of this Part.

(Ord. 511, 4/28/2003, §1)

§8-507. Hearing

Any person aggrieved by the decision of the Ebensburg Borough Police Department may request and shall then be granted a hearing before the Ebensburg Borough Council; provided, he files with the Ebensburg Borough Council within 10 days after notice of the Police Department's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause. After such hearing the Ebensburg Borough Council shall sustain, modify or overrule the action of the Police Department.

(Ord. 511, 4/28/2003, §2)

§8-508. Penalties

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 511, 4/28/2003, §3)

§8-509. 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 Ebensburg Borough Council.

(Ord. 511, 4/28/2003, §4)

PART 6

PROPERTY MAINTENANCE

§8-601. Definitions

BUILDING – a roofed structure, enclosed by one or more walls, for the shelter, housing, storage or enclosure of person, goods, materials, equipment or animals.

COURT – an open and unoccupied space on a lot enclosed on at least 3 sides by the walls of a building.

GARBAGE – putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION – the presence of insects, rodents, vermin and/or other pests.

LOT – plot, tracts, premises or parcel of land, with or without improvements thereto.

OWNER – any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto or who retains the exclusive control of such a lot and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

REFUSE – all putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

UNOCCUPIED HAZARD – any building, or part thereof, or manmade structure, which remains unoccupied for a period of more than 6 months, with either doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than 6 months.

YARD – any open space on the same lot with a building and, for the most part unobstructed from the ground up.

(Ord. 511, 4/28/2003, §1)

§8-602. Application

The provisions of this Part shall supplement local laws, ordinances or regulations existing in the Borough of Ebensburg or those of the Commonwealth of Pennsylvania. Where a provision of this Part is found to be in conflict with any provision of a local law, ordinance, code or regulations or those of the Commonwealth of Pennsylvania, the provisions which are more restrictive or which establishes the higher standard shall prevail.

(Ord. 511, 4/28/2003, §1)

§8-603. Buildings and Structures

- A. No owner of any building or structure shall fail to take steps and perform such maintenance thereto, as may be required from time to time, to ensure the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties and to the general populace.
- B. No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.
- C. Owners of any and all unoccupied building and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard, shall, upon direction of the Borough Council, remove or cause the removal of, the building and/or structure.

(Ord. 511, 4/28/2003, §1)

§8-604. Yards, Open Lots, Parking Areas

No person shall permit:

- A. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property.
- B. The development or accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots.
- C. Objectionable materials to accumulate and to be blown about the surrounding neighborhood.
- D. Wells, cesspools, cisterns, sedimentation ponds, stormwater management impoundment ponds and/or ponds of a similar nature to remain open without adequate fencing or barricades to prevent access thereto by the general public.
- E. The accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any portion thereof, to grow on their property and which constitute a safety hazard to pedestrian and/or vehicular traffic.

(Ord. 511, 4/28/2003, §1)

§8-605. Infestation, Prevention and Correction

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.
- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
- C. Where there exists rodent and vermin infestation, correction measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s) to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

(Ord. 511, 4/28/2003, §1)

§8-606. Miscellaneous Provisions

No person shall permit:

- A. Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction or maintenance or manner of discharge.
- B. Roofgutters, drains or any other system designed and constructed to transport stormwater, to be discharged into any sanitary sewage system and/or any part thereof;
- C. Any refrigerator, freezer and/or other similar storage chest to be discarded, abandoned or stored in any place or location which is accessible to the general public without first completely removing any and all locking devices and/or doors.

(Ord. 511, 4/28/2003, §1)

§8-607. Responsibilities of Occupants

Any occupant of a premises shall be responsible for compliance with the provisions of this Part with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof.

(Ord. 511, 4/28/2003, §1)

§8-608. Responsibilities of Owners

- A. Owner of premises shall comply with the provisions of this Part as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

- B. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one or more violations of this Part, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of this Part.

(Ord. 511, 4/28/2003, §1)

§8-609. Inspection

The Borough Council may, or may cause; through an authorized representative of the Borough of Ebensburg, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough of Ebensburg for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner, or his agent, to secure access thereof.

(Ord. 511, 4/28/2003, §1)

§8-610. Notice to Comply

- A. 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, the Police Department 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.
- B. 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. 511, 4/28/2003, §1)

§8-611. Authority to Remedy Noncompliance

If the owner does not comply with the notice to abate the conditions, within the time limit prescribed, the Borough of Ebensburg shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs. The Borough of Ebensburg, 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. 511, 4/28/2003, §1)

§8-612. Hearing

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

petition was filed unless postponed for sufficient cause. After such hearing the Ebensburg Borough Council shall sustain, modify or overrule the action of the Police Department.

(Ord. 511, 4/28/2003, §2)

§8-613. Penalties

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 511, 4/28/2003, §3)

§8-614. 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 Ebensburg Borough Council.

(Ord. 511, 4/28/2003, §4)

PART 7

OUTDOOR FURNACES

§8-701. Purpose

It is the purpose of this Part to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the Borough of Ebensburg for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Borough and its inhabitants. It is generally recognized that the types of fuel used, and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odor, air pollution, particles and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises.

(Ord. 530, 1/23/2006, §1)

§8-702. Definitions

OUTDOOR FURNACE – any equipment, device, apparatus or structure or any part thereof which is installed, affixed or situated outdoors for the purpose of combustion of any type of fuel to produce heat or energy used as a component of a heating system providing heat for an interior space or water source.

(Ord. 530, 1/23/2006, §2)

§8-703. Regulations

- A. Outdoor furnaces shall not be placed less than 40 feet from the nearest point of intersection of any other adjacent property owner's structure and shall have a chimney stack of at least 20 feet and/or at least two feet above the roof line of the highest structure within 200 feet, when installed. Said chimney stack shall also have a spark arrestor installed on top.
- B. Outdoor furnaces shall not be placed less than 20 feet from the nearest point of intersection of the property line of another property owner.
- C. An area of 20 feet around the outdoor furnace structure shall be free of vegetation, except grass not exceeding four inches in height.
- D. The minimum required lot size for an outdoor furnace is 40,000 square feet.

- E. No other fuel other than natural wood without additive, wood pellets without additive and agricultural seeds in their natural state may be burned. Processed wood products and other non-wood products, recyclable materials, plastics, rubber, paper products, garbage and painted or treated wood are prohibited.
- F. Furnaces are prohibited to burn between May 1 and September 30.
- G. Outdoor furnaces which are designed to heat structures 10% greater than the size of the structure(s) to be heated are not permitted.
- H. Outdoor furnaces and associated installation shall be subject to inspection by the Zoning Enforcement Officer and Building Codes Enforcement Officer at any reasonable time to assure compliance with the terms hereof.
- I. Outdoor furnace installation is subject to the permit provisions of the zoning and building code ordinances, including furnishing the following information:
 - 1. A drawing providing and identifying all of the information necessary to assure compliance herewith, including property lines, location of neighboring properties and structures, height of nearby buildings, etc.
 - 2. Manufacturer's specifications for the outdoor furnace.
 - 3. Compliance with all applicable State and Federal statutes, including the Environmental Protection Agency (EPA) and the Underwriter's Laboratory (UL) listing.
- J. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.
- K. This Part shall not be a defense to any civil claims.

(Ord. 530, 1/23/2006, §3)

§8-704. Enforcement

- A. If noncompliance with the provisions of this Part constitutes a nuisance, or if any condition poses a threat to the health, safety, or welfare of the public, the Police Department 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.
- B. Said notice shall specify the condition complained of and shall require the owner to commence to remove or otherwise rectify the condition 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. 530, 1/23/2006, §4)

§8-705. Penalty

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 530, 1/23/2006, §5)

§8-706. Grandfather Clause

This Part shall not be construed to be retroactive and shall not require the removal of any outdoor furnace in existence within the Borough at the effective date of this Part. All outdoor furnaces in existence at the effective date of this Part shall have or must erect a flue or chimney in accordance with the height requirements contained herein. If an outdoor furnace is more than 50% torn down, damaged, deteriorated or otherwise reduced to 50% of its original design, any rebuilding or restoration of said outdoor furnace shall be a violation of this Part.

(Ord. 530, 1/23/2006, §6)

PART 8

PAWN SHOPS

§8-801. Definitions

Scrap Metal Dealer – is defined as a person, association, corporation or partnership, or other entity, who primarily engages in or operates the business of buying, acquiring and/or selling scrap metal.

Pawn Shop Broker - is defined as a person, association, corporation or partnership, or other entity, who primarily engages in or operates the business of buying, for the purpose of reselling, any used goods or articles.

§8-802. Business on Licensed Premises Only

No person as a pawn shop broker in the Borough shall keep more than one place of business for receiving or taking goods in pawn; nor, shall at any time, take goods at any other place than the principal place of business.

§8-803. Rules & Regulations

All said businesses shall conduct their business in conformity with the following procedures:

- A. The owner of such business shall keep a log in which shall be legibly written in the English language the name of the person, his/her address, date of birth, a valid driver's license, valid state identification card, valid passport or a valid military identification. The owner of such business shall have a description of the article purchased (which will include any serial numbers and/or service tag number), a photograph of the article purchased, the date and time purchased, the amount of money paid therefore and the signature of the seller. The log shall be available for review by any law enforcement officer and/or Borough Zoning Officer/Codes Enforcement Officer.
- B. All owners of such businesses shall fill out at the time of transaction a receipt of purchase containing the seller's name and address, a description of the article purchased, and the date purchased. A copy of receipts for all transactions during a given week shall be provided to the Ebensburg Borough Police Department at the end of each week, in a manner prescribed by the police department. The dealer will maintain a copy of the original receipt at the business for a minimum of 1 year (these receipts must be available for inspection by any law enforcement personnel or Borough Zoning Officer/Codes Enforcement Officer upon request).
- C. All goods purchased by such businesses must be retained in the possession of the business for thirty (30) days and must remain in the County of Cambria during the waiting period.
- D. No such business shall purchase any article of value from any person under eighteen (18) years of age, or from any intoxicated person or any person known to be a thief or associate of thieves, or receiver of stolen property, or any person whom the business has reason to suspect or believes to be such.

§8-804. Exclusions

The provisions of this Ordinance shall not apply to:

- A. Businesses selling articles on consignment.
- B. Transactions involving only clothing.
- C. Purchases made by dealers from wholesalers or other suppliers, but shall only apply to those purchases made from the public.
- D. Bona fide trade, turn-ins or donation of secondhand goods, wares or merchandise or other goods where no cash is transferred or paid by the business.

§8-805. Penalties

- A. Any person/business failing, neglecting or refusing to comply with any of the above provisions of this Ordinance shall, upon summary conviction thereof in a summary proceeding before a district justice of Cambria County, be fined a sum of not more than Six Hundred (\$600.00) Dollars for the first offense, plus costs. In default of payment of such fines and costs, such person shall be imprisoned for a period not exceeding thirty (30) days. Every day that a violation continues shall be a separate violation.

(Ord. 616, 1/26/2015)