

**Borough of Smithton  
Westmoreland County, Pennsylvania**

**ORDINANCE NUMBER 231A of 2022**

**AN ORDINANCE OF THE BOROUGH OF SMITHTON, WESTMORELAND COUNTY, PENNSYLVANIA  
REPEALING AND REPLACING CHAPTER 10: HEALTH AND SAFETY AND CHAPTER 4: BUILDINGS OF  
THE BOROUGH OF SMITHTON CODE OF ORDINANCES.**

**WHEREAS**, the Borough Council is by virtue of the Laws and Constitution of the Commonwealth of Pennsylvania empowered to regulate standards and practices regarding buildings and properties in the Borough, regarding health, safety and welfare within the Borough; and

**WHEREAS**, Smithton Borough Ordinance Number 167, enacted September 18, 1989, forms the base framework of all Borough Ordinances, with various chapters dedicated to various subjects and individual regulations contained therein; and

**WHEREAS**, Smithton Borough Ordinance Number 216, enacted November 9, 2015 and Smithton Borough Ordinance Number 219, enacted July 16, 2018 both make significant additions and alterations to Chapter 10: Health and Safety of Smithton Borough Ordinance Number 167; and

**WHEREAS**, Borough Council has from time to time seen fit to alter and amend these ordinances to encompass new standards and practices for the purpose of improving public health and happiness in the Borough;

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Borough of Smithton that:

**Section 1:** Chapter 10 of Ordinance Number 167, and Ordinances Number 216 and 219 be abolished in their entirety and that the first material contained herein be adopted and added to the Borough Ordinance Book as the new Chapter 10: Health and Safety, and that the second material contained herein be added to Chapter 4: Buildings and to be published and enforced as necessary for the benefit of the Borough, its residents and its guests.

**Section 2:** Any and all Ordinances, amendments, and/or resolutions, or parts thereof, conflicting herewith are repealed insofar as the matters herein are affected.

**Section 3:** The provisions of this Ordinance are severable, and if any clause, sentence, subsection or section hereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgement or decision shall not affect, impair or invalidate the remainder but shall be confined in its operation and application to the clause, sentence, subsection or section rendered illegal, invalid or unconstitutional. It is hereby declared the intent of the Borough of Smithton Council that this ordinance would have been adopted if such, illegal, invalid or unconstitutional clause, sentence or section had not been included therein.

**Section 4:** This ordinance shall be effective immediately upon final enactment.

**ORDAINED AND ENACTED** into law this 9<sup>th</sup> day of May, 2022.

Attest:

  
Jennifer Perry, Secretary

  
Kevin Regotti, President

I, the undersigned, Mayor of the Borough of Smithton, Westmoreland County, Pennsylvania, do hereby certify that I have reviewed and approved the within Ordinance this 9<sup>th</sup> day of May, 2022.

  
Christine Tutena, Mayor

## **CHAPTER 10 HEALTH AND SAFETY**

### **Part 1 Weeds and Vegetation**

- §101. Vegetative Growth a Nuisance Under Certain Circumstances
- §102. Responsibility for Removing, Cutting or Trimming
- §103. Notice to Remove, Trim or Cut; Borough May Do Work and Collect Costs
- §104. Enforcement and Penalties for Violation

### **Part 2 Property Maintenance**

- §201. Short Title
- §202. Preface
- §203. Authority
- §204. Definitions
- §205. Application
- §206. Yards, Open Lots, Parking Areas
- §207. Infestation, Prevention and Correction
- §208. Responsibility of Occupants
- §209. Responsibilities of Owners
- §210. Inspection; Notice to Comply
- §211. Authority to Remedy Non-compliance
- §212. Hearing
- §213. Penalties
- §214. Owners Severally Responsible

### **Part 3 Storage of Motor Vehicles**

- §301. Definitions
- §302. Motor Vehicle Nuisances Prohibited
- §303. Storage of Motor Vehicle Nuisances Permitted
- §304. Inspection; Notice to Comply
- §305. Authority to Remedy Non-compliance
- §306. Hearing
- §307. Penalties
- §308. Remedies not Mutually Exclusive

**Part 4**  
**Storage of Personal Property**

- §401. Definitions
- §402. Health Hazards and Nuisances Prohibited
- §403. Storage Requirements
- §404. Goods Displayed For Sale in Borough
- §405. Inspection; Notice to Comply
- §406. Authority to Remedy Non-compliance
- §407. Hearing
- §408. Penalties
- §409. Remedies not Mutually Exclusive

**Part 5**  
**Fences**

- §501. Construction, Etc. Permit Required
- §502. Height Limitations
- §503. Barbed Wire and Other Unsafe Fencing Prohibited
- §504. Construction Standards
- §505. Treatment of Metal Fences
- §506. Maintenance and Sturdiness
- §507. Proximity to Lot and Curb Lines
- §508. Fences Surrounding Pools and Other Structures
- §509. Permit Fees and Deadlines
- §510. Penalties

## **Part 1**

### **Weeds and Vegetation**

#### **§101. Vegetative Growth a Nuisance Under Certain Conditions.**

1. No person, firm, or Corporation, owning or occupying any property within the Borough of Smithton shall permit any grass or weeds or other vegetation not planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height or six inches (6"), or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit, or to create or produce pollen. Any grass weeds or other vegetation growing upon any premises in the Borough in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough. The deposit and accumulation of grass clippings, leaves, and other yard waste upon and into the streets of the Borough have created a public problem by increasing the amount of waste and debris in the streets, making the Borough less visually attractive, increasing the pollution and run-off in the Borough's storm sewers, and creating hazardous conditions in the roadway for vehicles and pedestrians.
  
2. No person, firm or Corporation owning, occupying, or working on any property within the Borough of Smithton shall permit any material, debris, or residue including but not limited to dirt, rock, stone and gravel to remain upon such premises, or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit, or to create or produce a dangerous or unhealthy condition. The deposit and accumulation of residue upon and into the streets of the Borough have created a public problem by increasing the amount of waste and debris in the streets, making the Borough less visually attractive, and increasing the pollution and run off in the Borough's storm sewers.
  
3. A significant portion of the run-off and debris in the streets results from persons intentionally dumping or placing grass clippings, leaves, yard waste, and residue in the Borough Streets; and shall be prohibited.
  
4. There shall be a presumption that grass clippings, leaves, yard waste or residue immediately adjacent to a property where caused to be placed there by the property owner. This is a rebuttable presumption.

#### **§102. Responsibility for Removing, Cutting or Trimming.**

The owner of any premises, or the occupant of premises occupied by other than the owner, shall remove all residue, dirt, rocks, gravel, stone and shall remove, trim, or cut grass, weeds, or other vegetation growing or remaining upon such premises in violation of the provisions of §101.

In addition, the said owner or occupant shall be responsible for removing, trimming, or cutting any weeds, grass or other vegetation growing on any street or alley abutting on said premises. It shall be unlawful for any person to knowingly cause grass clippings, leaves, or other debris or waste produced in conjunction with yard maintenance or gardening onto the streets, alleys and other public roads of the Borough of Smithton. A homeowner is responsible to ensure that any persons hired to cut their grass or maintain their yard abide by this ordinance. Any grass or waste which inadvertently is caused to enter the streets or alleys of the Borough shall be promptly removed; there is no "grace period" in which to remove grass or leaves.

**§103. Notice to Remove, Trim or Cut; Borough May Do Work and Collect Costs.**

The Borough Council, or any officer or employee of the Borough of Smithton designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of §101 of this Part 1, directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this part, within five (5) days after issuance of such notice. Whenever, in the judgment of the Enforcement Officer it shall appear to be impracticable to give notice as above provided, either because a search for the owner or occupant cannot readily be found or because a search for the owner or occupant would entail unreasonable delay, the Borough Council or any officer or employee of the Borough designated thereby for that purpose, may give notice by posting conspicuously on the property where such nuisance exists, a notice or order directing and requiring that such nuisance be abated within five (5) days. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough Council may order the removal, trimming or cutting of such grass, weeds or vegetation, and the cost thereof, together with a penalty of ten percent (10%) of the cost thereof shall be collected by the Borough from such person, firm or corporation, in the manner provided by law.

**§104. Enforcement and Penalties for Violation.**

1. This Part may be enforced by the Police Department or Code Enforcement Officer. Any violation of this Part shall initially be sanctioned by the civil penalty method set forth in Subsection 2. The enforcing officer should use common sense and discretion in the enforcement of this Ordinance and should consider means other than the issuance of a summons where appropriate. No summons may be based upon hearsay.
2. A violation of this Part shall constitute a civil penalty and shall, upon conviction thereof, be punishable by a fine set in the Borough's Schedule of Fines and Costs. A summons, similar in form to a parking summons, shall be issued to the violating property owner or tenant and paid at the Borough Office within seventy-two (72) hours of the issuance.
3. Any person who fails to pay a civil penalty set under Subsection 2 within ten (10) days commits a summary offense under the Borough Code and shall be issued a citation through the Magisterial District Justice. Upon conviction, a Defendant shall be sentenced to pay a fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00), and/or to undergo imprisonment for a term not to exceed ninety (90) days. Each day that a violation of this part continues after notice shall constitute a separate offense.

## **Part 2**

### **Property Maintenance**

#### **§201. Short Title.**

This Part shall be known and cited as the "Borough of Smithton Property Maintenance Ordinance."

#### **§202. Preface.**

Recognizing the need within the Borough to establish certain minimum health and safety requirements for those buildings, structures, or properties which are used or associated with human occupancy; this Part hereby establishes standards which the Borough Council considers to be fair and effective in meeting those minimum requirements.

#### **§203. Authority.**

This Part, and the objectives leading to its enactment, are authorized by the following provisions of the Borough Code, to wit 8 Pa.C.S.A. § 1802 (3)-(5).

#### **§204. Definitions.**

**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 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 non-putrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

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

#### **§205. Application.**

The provisions of this Part shall supplement local laws, ordinances or regulations existing in the Borough or those of the Commonwealth of Pennsylvania. Where a provision of this ordinance 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 is more restrictive or which establishes the higher standard shall prevail.

#### **§206. Yards, Open Lots, Parking Areas.**

No person shall permit:

1. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property;
2. The development of accumulation of hazards, rodent harborage and/or infestation upon yards, lots;

3. Garbage, refuse or other objectionable materials to accumulate and/or to be blown about the surrounding neighborhood;
4. Wells, cesspools, cisterns, sedimentation ponds, storm water 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

**§207. Infestation, Prevention and Correction.**

1. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.
2. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
3. Where there exists rodent and vermin infestation, corrective 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.

**§208. 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.

**§209. Responsibilities of Owners.**

1. Owners 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.
2. In instances where an occupant is responsible or shares responsibility with an owner, for the existence of one (1) 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.

**§210. Inspection; Notice to Comply.**

1. The Enforcement Official is hereby empowered to inspect grounds on which a nuisance is suspected or reported to exist, 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 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 complained of, and shall require the owner to commence to remove or otherwise rectify the condition as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

**§211. Authority to Remedy Noncompliance**

If the owner of grounds on which the condition exists 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 ten percent (10%) 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.

**§212. Hearing.**

Any person aggrieved by the decision of the Enforcement Official may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within ten (10) days after notice of the Enforcement Official'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 thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause, After such hearing, the Borough Council shall sustain, modify or overrule the action of the Enforcement Official.

**§213. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00), together with costs of prosecution, or to imprisonment for a term not to exceed thirty days. Each day a conviction in violation of this ordinance exists beyond the thirty (30) day voluntary compliance period shall constitute a separate violation of this Part.

**§214. Owners Severally Responsible.**

If the premises are owned by more than one (1) owner, each owner shall severally be subject to prosecution for the violation of this Part.



## **Part 3**

### **Storage of Motor Vehicles**

#### **§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 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 Smithton.

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. 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.

#### **§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 Smithton. 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:

1. Broken windshields, mirrors or other glass, with sharp edges.
2. One or more flat or open tires or tubes which could permit vermin harborage.
3. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
4. Any body parts with sharp edges including holes resulting from rust.
5. Missing tires resulting in unsafe suspension of the motor vehicle.
6. Upholstery which is torn or open which could permit animal and/or vermin harborage.
7. Broken headlamps or tail-lamps with sharp edges.
8. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
9. Protruding sharp objects from the chassis.

10. Broken vehicle frame suspended from the ground in an unstable manner.
11. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
12. Exposed battery containing acid.
13. Inoperable locking mechanism for doors or trunk.
14. Open or damaged floor boards including trunk and firewall.
15. Damaged bumpers pulled away from the perimeter of vehicle.
16. Broken grill with protruding edges.
17. Loose or damaged metal trim and clips.
18. Broken communication equipment antennae.
19. Suspended on unstable supports.
20. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough.

**§303. Storage of Motor Vehicle Nuisances Permitted.**

Any person, owner or lessee who has one or more motor vehicle nuisances as defined in §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. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or, outside within an opaque fence at least six feet (6') high which is locked at all times when unattended. With the special approval of the Borough Council motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six feet (6') high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed two hundred (200) square feet.

**§304. Inspection; Notice to Comply.**

1. The Enforcement Officer is hereby empowered to inspect grounds on which motor vehicles are stored to determine if there is compliance with the provisions of this Part. In 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 ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

**§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 ten percent (10%) 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.

**§306. Hearing.**

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 ten (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 thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.

After such hearing, the Borough Council shall sustain, modify or overrule the action of the Inspecting Official.

**§307. Penalties.**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00), and/or to undergo imprisonment for a term not to exceed ninety (90) days. Each day that a violation of this ordinance continues shall constitute a separate offense.

**§308. Remedies not Mutually Exclusive.**

The remedies provided herein for the enforcement of the 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.

## **Part 4**

### **Storage of Personal Property**

#### **§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 – The 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 Smithton.

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.

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

#### **§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 Smithton. 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:

1. Broken glass or metal parts with sharp or protruding edges.
2. Openings or areas which are conducive to the harboring and growth of vermin.
3. 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.
4. 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.
5. Any other condition which, in the opinion of the inspecting official, shall be deemed to be a health hazard, potential health hazard or nuisance.

#### **§403. Storage Requirements.**

Storage of such items as listed in §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 §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 opaque fence at least six feet (6') 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 six feet (6') 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 two hundred (200) square feet.

Nothing herein shall be construed to permit the storage of machinery, equipment, or material nuisances contrary to the provisions of the Zoning Ordinance.

**§404. Goods Displayed For Sale in Borough.**

1. No person, whether a property owner, lessee, tenant, resident, or any agent acting in their behalf shall place any goods, merchandise or other property anywhere on or about exterior property areas or public roadways anywhere in the Borough for the purpose of displaying and/or advertising these goods for sale, trade or other means of exchange.

2. Exceptions to Subsection 1 are the following:

(a). A garage sale or yard sale on a residential property. Such property with such a sale shall have a sign visible and legible from the street in front of it with the words "Garage Sale" or "Yard Sale" on this sign. Such a sale may continue for a period of up to 72 consecutive hours, after which it is in violation of this Section. After the conclusion of such a sale, a new sale may not begin on the same property for a period of one month.

(b). A vehicle that is not classified as a Nuisance Vehicle or Abandoned Vehicle by this Chapter, or by Commonwealth statutes other Borough Ordinances, may be displayed in a driveway or parking lot or legally parked in a public street and advertised for sale by means of signs inside the vehicle visible through the vehicle's windows.

(c). Fairs, parades, street festivals and other special events as approved by Borough Council. Displayers of goods for sale have two hours following the conclusion of such an event to remove such property, after which it is a violation of this Section.

3. Evidence that items placed upon a property are for sale in violation of this Section shall include, but not be limited to, physical signs posted on the property or nearby, advertisements or other postings in newspapers, bulletins, websites, social media or other internet forums, price tags on items, statements made by the property owner, tenant, or agent acting in their behalf, items being placed on display tables or blankets conspicuous from the street, or in other ways being consistent with a yard sale, flea market or place where merchandise is sold.

**§405. Inspection; Notice to Comply.**

The Enforcement Officer 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 ordinance. If noncompliance with the provisions of this ordinance 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.

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 ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

**§406. Authority to Remediate 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 ten percent (10%) 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.

**§407. Hearing.**

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 ten (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 thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.

After such hearing, the Borough Council shall sustain, modify or overrule the action of the Enforcement Officer.

**§408. Penalties.**

Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00), and/or to undergo imprisonment for a term not to exceed ninety (90) days. Each day that a violation of this ordinance continues shall constitute a separate offense.

**§409. Remedies not Mutually Exclusive.**

The remedies provided herein for the enforcement of this ordinance, 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.

## **Part 5 Fences**

### **§501. Construction, Etc. Permit Required.**

No person, corporation, partnership, company or other entity shall construct, install, add to or alter a fence in the Borough, unless a permit is secured therefore. Replacement of boards or other fencing material which have come loose or have deteriorated but are in keeping with the exact size and character of an existing fence do not require a permit.

### **§502. Height Limitations.**

No fence shall be constructed which exceeds any of the following height limitations:

1. Forty-eight inches in front of the building line applicable to the subject property.
2. Seventy-two inches behind the front building line applicable to the subject property, except as otherwise provided in subsection (c) below.
3. Forty-eight inches wherever the fence shall be located on any portion of any lot that abuts a street, intersection or common drive that empties onto a public street

### **§503. Barbed Wire and Other Unsafe Fencing Prohibited.**

Barbed wire and all other fencing that is designed to cut or injure is prohibited in all residential districts.

### **§504. Construction Standards and Regulations.**

All fences erected must be of good quality and must be firmly and sturdily footed in the ground. In addition to the standards and regulations set forth in this Part, all fences erected must abide by the terms of the Borough's Flood Plain Ordinance and by all other Federal, State and Borough laws, ordinances, regulations, guidelines and standards.

### **§505. Treatment of Metal Fences.**

Any fence erected which is made of a metal fabric or which is partially made of any metal fabric shall be galvanized or otherwise treated to prevent the formation of rust, and the metal used in the fabric shall be at least eleven gauge or heavier.

### **§506. Maintenance and Sturdiness.**

1. All fences shall be maintained in a sturdy and good condition. Fences which become loose, rusted or rotted, whether in whole or in part, shall be repaired, replaced or removed.
2. Any fence that cannot support the weight of 150 pounds without bending, breaking, leaning or moving shall be deemed not to be sturdy.

### **§507. Proximity to Lot and Curb Lines.**

All fences shall be set back a minimum of six inches from all side and rear yard property lines. All fences shall be set back at least twelve inches from all front yard property lines and/or sidewalks. Further, all fences must be set back a minimum of six feet from any curb line.

**§508. Fences Surrounding Pools and Other Structures.**

1. All pools, swimming pools, water retention basins and other structures, temporary or permanent and above or below ground, which may hold water, shall be surrounded by a fence, except as provided in Subsection 4 hereof.
2. Fences required by Subsection 1 herein may surround the pool or the property. The wall of a building may constitute a portion of the fence. Such fences shall be adequate to make the structure containing the water inaccessible to small children.
3. Fences required by Subsection 1 herein shall not be less than four feet in height and shall be subject to the height limitations imposed in Section §502. Further, such fences shall be constructed out of any of the following materials:
  - (a). Masonry or brick
  - (b). Wire mesh, a minimum of nine gauge with posts not more than ten feet apart, and
  - (c). Pickets, not less than three-fourths of an inch thick if wood or twenty gauge if metal, with posts not more than ten feet apart.
  - (d). All gates or door openings through any fence required to be erected under this section shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door for any dwelling which forms a part of the fence enclosure need not be so equipped.
4. Structures which are not capable of holding water in excess of two feet in depth need not be surrounded by a fence if the structures are emptied of all water when not in use, or are securely and adequately covered to prevent small children from uncovering the pool when not in use.

**§509. Permit Fees and Deadlines.**

1. The fee for a permit for construction, installation, addition or alteration of any fence shall be twenty dollars (\$20.00) per each thousand dollars (\$1,000) cost of the work or fraction thereof.
2. Once a fence permit has been approved, the individual or party to whom the permit has been awarded has thirty (30) days to begin the work approved in the permit, or the permit will expire due to lack of activity. All work must be completed within six (6) months of the date of approval or the permit will likewise expire and the property owner may be held liable and cited for improper fencing as outlined in this Chapter.

**§510. Penalties.**

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed each day that the violation continues.