

CHAPTER 6

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Part 1

Curfew

§101. Definitions and Interpretation.

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

ENFORCEMENT OFFICER - the individual designated from time to time by Borough Council. Individual may also be a Code Enforcement Officer or Police Officer.

MINOR - person under the age of sixteen (16) years.

PARENT - any natural parent of a minor, as herein defined, or a guardian, or any adult person responsible for the care and custody of a minor. When used in this Part 1, "parent" shall mean one or both parents.

PUBLIC PLACE - any public street, alley, sidewalk, park, playground, public building or vacant lot in the Borough or owned by the Borough.

REMAIN - to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four (4) or more persons in which any minor involved would not be using the streets, for emergencies or ordinary purposes such as mere passage of going home.

In this Part 1, the singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§102. Curfew; Exceptions.

It shall be unlawful for any minor to be or remain in or upon any public highway, park or other public place within the Borough, owned by the Borough, or in any enclosure or vehicle which is on or in close proximity to any such public place within the Borough, between the hours of 9:00 P.M. and 6:00 A.M. on the following day. Exceptions to the above are the following:

1. Minor accompanied by parent, guardian or other person having legal care or custody of such minor.
2. Minor possessing a written statement dated that day and signed by parent, guardian or other person having the legal care or custody of such minor, which statement specifies the time, place, purpose and necessity of the minor being in a public place contrary to this Part 1.
3. Minor lawfully employed making it necessary to be on or in highways, streets, parks, etc., as stated above and possessing a current letter certifying the same and signed by employer, parent or guardian.
4. Minor on an emergency errand.
5. Minor traveling to and from church, school or municipal activity with parental permission statement as in subsection 2 above.

§103. Parents not to Permit Violation.

It is hereby made unlawful for any parent, guardian or the person having the legal care or custody of a minor to allow or permit such minor to violate any of the provisions of this Part 1 without legal justification therefor.

§104. Procedure upon Violation.

Any minor found upon the streets, alleys, parks or public places within the Borough in violation of §102 shall be taken into custody by the Borough police or legally deputized individual, be delivered to his parent(s), guardian or person having the legal custody of said minor, and be given a copy of this Part 1. A report shall be filed and kept in a book for that specific purpose. If said parent, guardian or person having the legal custody of said minor shall again allow him to be on the streets, alleys, parks or public places in violation of §102, said parent, guardian or person having the legal custody of said minor so offending shall, upon the second offense, be called along with offender and be so advised once again as to the penalty provisions contained in this Part 1. Upon the third violation, said parent, guardian or person will be remanded to the District Justice for disposition.

§105. Penalties.

Any person who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than three hundred dollars (\$300.00), and/or to imprisonment for a term not to exceed ninety (90) days.

§106. Procedure in Case of Repeated Violations or Other Factors Interfering with Enforcement.

Any minor who shall violate this Part 1 more than three (3) times may, at the discretion of the proper Borough officials, be reported to a society or organization the purpose of which is to take charge of incorrigibles and delinquents, and proceedings shall then be taken in the proper court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason the provisions of §102 of this Part 1 cannot be made effective by the imposition of fines and penalties.

§107. Enforcement Officer's Discretion in Age Determination.

The enforcement officers of the Borough of Smithton in taking minors into custody shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

Part 2

Firearms

§201. Discharge of Firearms Prohibited.

Except in necessary defense of person and property and except as provided in §203 of this Part 2, it shall be unlawful for any person to use, fire or discharge any gun or other firearm within the Borough of Smithton.

§202. Use of Air Rifles, Bow and Arrows, or Similar Devices Restricted.

It shall be unlawful for any person to discharge any air rifle, air pistol, spring gun, spring pistol, B-B gun, bow and arrow, or similar device, or any implement that is not a firearm but which impels a pellet of any kind with a force that can reasonably be expected to cause bodily harm, at any place within the Borough, except on a properly constructed target range and except as provided in §203 of this Part 2.

§203. Exceptions.

This Part 2 shall not apply to:

1. Persons licensed to hunt in this Commonwealth while actually engaged in hunting where permitted under the laws of the Commonwealth of Pennsylvania;
2. Members of any organization incorporated under laws of this Commonwealth engaged in target shooting upon the grounds or property belonging to or under the control of such organization;
3. Any law enforcement officers when used in the discharge of their official duties.

§204. Penalties for Violation.

Any person who shall violate any provision of this Part 2 shall, upon conviction thereof be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than three hundred dollars (\$300.00), and/or to imprisonment for a term not to exceed ninety (90) days.

Part 3

Protection of Public Property

§301. Definition and Interpretation.

As used in this Part 3, the term PERSON shall include any individual, corporation, partnership, association, firm, or other legal entity. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§302. Tampering with Public Property on Streets, Alleys or Public Ground Prohibited.

No person shall destroy, injure, tamper with or deface any public property of the Borough, or any grass, walk, lamp, ornamental work, building or street light on or in any of the streets, alleys, side- walks, or public grounds in or of the Borough.

§303. Tampering with Stakes, Posts and Monuments Prohibited.

No person shall in any manner interfere or meddle with, or pull, drive, change, alter, or destroy any stake, post, monument, or other marking made, placed or set, or hereafter made, placed or set, or caused to be done by the authorities of the Borough, to evidence the location, elevation, line, grade, corner, or angle of any public street, alley, sidewalk, curb, gutter, drain or other public work, or thing.

§304. Tampering with Warning Lamps, Signs or Barricades Prohibited.

No person shall destroy, remove, deface, obliterate or cover up any lamp, sign or barricade erected as a warning of danger by the authorities of the Borough or by any person doing work by permission of the authorities of the Borough on any of the streets, alleys, sidewalks, or bridges in the Borough or on any public grounds of the Borough within or without the Borough.

§305. Removal of Material from Streets, Alleys or Public Grounds Prohibited.

No person shall take any earth, stone, or other material from any street, alley, or public grounds in or of the Borough.

§306. Deposit of Harmful Substances on Streets, Alleys, Sidewalks or Public Grounds Prohibited.

No person shall pour, throw or deposit any harmful or destructive substance or matter on any street, alley, sidewalk or public grounds in or of the Borough,

§307. Exceptions.

This Part 3 shall not apply to normal activities in connection with construction, maintenance and repair of streets, alleys, sidewalks, and public grounds and the structures and fixtures located there- on or therein, or to incidental results of work done thereon or therein upon permit from or by authority of the Borough.

§308. Littering, scattering rubbish or dumping.

1. No person shall throw, dump, place, sweep or dispose of any litter, waste, trash, garbage, tobacco product, private advertising matter or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, right of way or on any public property, or other property owned by the Borough of Smithton.
2. The improper disposal of rubbish or garbage or dumping or disposing of rubbish or garbage on vacant, unoccupied, or other property is prohibited.
3. No person, group, organization or entity will hang, place or advertise on any public property in any manner, including upon street signs, telephone poles, yard signs and other similar manners.

§309. Penalties.

Any person who shall violate any provision of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than three hundred dollars (\$300.00), and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 3 continues shall constitute a separate offense.

Part 4**Peace and Order on Public and Private Property****§401. Purpose.**

The Council of the Borough of Smithton has determined it to be in the best interest and general welfare of the citizens, invitees and visitors of the Borough to adopt an ordinance which prohibits disorderly gatherings and activities, ensures a positive quality of life, and protects the health, safety, general welfare and property values of everyone within its borders.

The Council understands that the municipal services of Smithton Borough are being strained and the citizens of the Borough of Smithton are being unfairly burdened by the conduct or misconduct occurring on both public roadways and properties as well as certain private properties by the residents and/or visitors to those properties; and that certain private properties require a disproportionate amount of attention from the Smithton Borough Police Department and Code Enforcement personnel in order to properly protect the peace, health, safety, and general welfare of the public.

The Council therefore enacts this ordinance providing for the issuance of tickets, citations, and penalties to those upon public properties who violate the rules of proper conduct, and to those owners, tenants, guests and other occupiers of properties who engage in improper or disorderly conduct, in a timely manner, for these quality of life violations.

§402. Definitions.

Unless the context otherwise requires, the following words and phrases in this Chapter shall be construed according to the definitions set forth below. Any terms not defined herein shall have their ordinary meaning.

ADULT – Any person 18 years of age or older.

CODE ENFORCEMENT SERVICES - Services rendered by the Code Enforcement personnel of the Borough of Smithton in connection with inspections, violations of Borough ordinances, or violations of the Property Maintenance Code.

DEBRIS – Any material upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked or piled in such a manner so as not to create a nuisance or become a harboring place or food supply for insects or rodents.

DUMPING – Includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, televisions, air conditioning units, etc.), small appliances,

furniture, carpets, tires, vehicles, vehicle parts and automotive products or other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized.

DWELLING UNIT – One or more rooms, including a kitchen or kitchenette and sanitary facilities in a dwelling structure, designed as a unit for occupancy.

GARBAGE – The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

LITTER – Includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, dirt, mud and yard waste that has been abandoned or improperly discarded, deposited or disposed.

OWNER - Any natural person, partnership, corporation, or other entity that holds record title to private property.

POLICE SERVICE - Police service rendered in responding to a call at a disorderly gathering, disorderly house, or otherwise to maintain order, the public peace, or public safety, as well as stopping a public disturbance at a disorderly gathering or a disorderly house.

PRIVATE PROPERTY - Any land, building, or other structure not owned by a public entity.

PUBLIC OFFICER – Any police officer, code enforcement officer, authorized inspector, or public official designated by Mayor or Council to enforce City Ordinances.

RIGHT-OF-WAY – The total width of any land used, reserved or dedicated as a street, alley, driveway, sidewalk or utility easement, including curb and gutter areas.

WASTE – Any garbage, refuse, industrial, lunchroom or office waste, and other material, including solid, liquid, semisolid, or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments or from community activities and which is not classified as residual waste or hazardous waste as defined herein. The term does not include source-separated recyclable materials.

§403. Certain Noises Prohibited.

1. Findings

The Borough Council of the Borough of Smithton, Pennsylvania, hereby finds and declares that:

A. The making and creation of loud, unnecessary or unusual noises within the limits of the Borough of Smithton is a condition which has existed for some time and the extent and volume of such noise is increasing.

B. The making, creating or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use affect and are detrimental to public health.

C. 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 it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Borough of Smithton and its inhabitants.

2. Loud, disturbing and unnecessary noises prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Borough.

3. Enumeration of loud, disturbing and unnecessary noises.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive; namely:

A. Horns, signaling devices, etc. The sounding of any horn or signaling device on any motor vehicle, motorcycle, locomotive or other means of conveyance within the limits of the Borough, except as a danger warning; the creation by means of such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or by electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.

B. Racing motors. The unnecessary or unnatural acceleration, deceleration or racing of a motor in a motor vehicle, whether in motion or at rest, within the limits of said Borough.

C. Exhausts. The discharge upon the open air of the exhaust of any steam or diesel locomotive, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

D. Defect in vehicle or use of loud vehicle. The use of any motor vehicle, motorcycle or other piece of machinery or equipment so out of repair, loaded or defective in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

E. Radios, phonographs, etc. The using, operating, playing, or permitting to be played, used or operated any radio receiving sets, musical instruments, sound amplifiers, phonographs, speakers, or other machines or devices for the production or reproduction of sound in such a manner as to disturb the peace, quiet, comfort and repose of the neighboring inhabitants at any time with a louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners thereto. The operation of any such set instrument, phonograph, machine, speaker or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be a violation of this section.

F. Loud speakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

G. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any school, church or office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

H. Animals, birds, etc. The keeping of any animal or bird, which by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity.

I. Loading, unloading, opening boxes. The creating of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and other containers.

J. Construction or repair of buildings, lands and streets. The construction, erection (including excavating), demolition, alteration, removal, replacement or repair of any streets, highways, lands, parking areas, or buildings shall be permitted within the Borough only between the hours of 7:00 a.m. and 8:00 p.m., seven days a week. Such activities may be engaged in at other hours if necessitated by concerns for public health and safety and then only with the permit issued by the Borough or its designee, which permit shall be granted for a period not to exceed three days or less while the emergency continues and the permit may be renewed for periods of three days or less while the emergency continues. In order to grant such a permit, the Borough or its designee must determine that the public health and safety will not be impaired by the granting of the permit.

K. Amplified noises. To create or cause to be created amplified noise that can be heard by persons of normal hearing acuity within 50 feet of any boundary of

the property on which the noise is originating. Amplified noise shall be considered any sound increased in volume by electronic means so as to be discernible more than 50 feet from the edge of the property on which the electronic amplification is located.

§404. Disorderly Conduct and Disturbance of the Peace Prohibited.

1. Disorderly conduct is hereby prohibited within the Borough of Smithton. Any person who shall willfully makes or causes to be made any loud, boisterous and unseemly noise or disturbance to the annoyance of the peaceable residents nearby, or near to any public street or alley, or public ground within or owned by the Borough, whereby the public peace is broken or disturbed, or the traveling public annoyed, shall be guilty of disorderly conduct.
2. Disturbance of the peace is hereby prohibited within the Borough of Smithton. Any person who shall be guilty of any willful act causing or tending to cause a disturbance of the peace and good order of the Borough, or causing or tending to cause any danger, discomfort or annoyance to inhabitants of the Borough or to users of any of the public streets or alleys in the Borough; or who shall fight or quarrel or incite others to fight or quarrel; or who shall publicly make use of obscene or indecent language; or who shall loaf or loiter or congregate upon any of the public streets or alleys or public grounds in or owned by the Borough, to the annoyance of the peaceable residents nearby or traveling upon any street or alley or being lawfully upon any of the public grounds in the Borough, whereby the public peace is broken or disturbed or the traveling public annoyed; or who shall drink any alcoholic beverage as defined in Article I hereof while being in or upon any of the public streets or alleys or parks or other public grounds in the Borough, shall be guilty of disturbance of the peace.
3. Any person who shall have in his possession an open container, bottle or can, containing any alcoholic beverage while being in or upon any public streets, alleys, parks or other public grounds in or owned by the Borough of Smithton, shall be guilty of disturbing the peace.
4. The Borough Council, by resolution, may establish and revise regulations to permit the possession of an open container of an alcoholic beverage as defined in Article I hereof for a specific community event in public places on such terms, at such times, and at such locations as are established by regulations.
5. Any person, group, or establishment desiring to conduct a community event and obtain a waiver of the provisions of this Part or any section hereof prohibiting public consumption of alcoholic beverages shall submit an application to the Borough to obtain a license for such waiver; provided, however, that the Borough is not required to grant such a waiver.
6. Any person, group, or establishment that does not conform to the provisions of this Part shall be guilty of disturbing the peace when a violation of possessing an open

container of an alcoholic beverage in or about a public place occurs as a result of nonconformance with this Part.

7. Any person, group, or establishment that has been issued a license, but does not abide by this Part shall be subject to the penalties contained in Section 405, and, in addition, may have the license revoked by the Borough.

§405. Penalties.

1. Borough Council, or any public officer, agent or employee designated thereby for the purpose, is authorized to enforce this chapter.

2. Any person, partnership, corporation or other entity who shall violate any provisions of this Part shall be guilty of a summary offense, and, upon conviction thereof, be sentenced to pay a fine of not less than \$300 and not more than \$600 and costs of prosecution, and, may also be imprisoned for not more than 10 days; provided that if any person or persons shall permit a violation of this chapter to continue after notice to desist, each additional violation shall be considered as a separate offense; provided if any violation of any provision of this chapter shall also constitute a violation of a specific provision in the laws of Pennsylvania, such violation shall be prosecuted under the applicable law, and not under this chapter.

§406. Exceptions.

Nothing in this chapter shall permit or make unlawful the natural and unusual noises associated with athletic events, parades, or other such affairs open to the public, or affairs by which a permit has been issued by the Borough to use public streets and/or property.

Part 5

Disorderly Houses and Gatherings on Private Property

§501. Definitions.

ADULT – Any person 18 years of age or older.

DISORDERLY GATHERING - A gathering at which any public disturbance occurs.

DISORDERLY HOUSE – Any place within the Borough where persons gather or abide and where the owner, lessee, or person in charge permits, encourages, or tends to permit or encourage drunkenness, illegal consumption of alcohol or drugs, boisterous conduct, unseemly noise, fighting or other conduct which disturbs the public peace or decorum, or promotes disorder and lessens the dignity of the community. Said definition shall apply whether the place is public or private, a building, parking area, or any lot of land in the Borough. All such places within the Borough of Smithton are hereby declared a public nuisance.

DWELLING UNIT – One or more rooms, including a kitchen or kitchenette and sanitary facilities in a dwelling structure, designed as a unit for occupancy.

GATHERING - A party or other event involving a group of persons who have assembled or are assembling for a social occasion or activity on private property.

HOST - The person who is in possession or control of the private property where a gathering takes place by virtue of owning the property, having a lease on the property, or otherwise being in possession of the property, and/or who organized, sponsored, conducted, hosted, or permitted such gathering, invited persons to attend such gathering, or was otherwise in charge of such gathering.

KEEPER OF A DISORDERLY HOUSE – Any person who is the owner, lessor, lessee, or other person in charge of any disorderly house at the time when any of the acts defined above are permitted, encouraged, or committed.

NUISANCE - Any activity, conduct or condition which causes injury, damage, hurt, inconvenience, annoyance or discomfort to the public as necessarily comes in contact with such activity, conduct, or condition, and which adversely affects the same's safety, health, morals, or general welfare, including aesthetics.

OCCUPANT – Any persons who lives in or has possession of, or holds an occupancy interest in a dwelling unit; or any person residing in or frequenting the premises of the dwelling unit with the actual or implied permission of the owner or lessee.

OCCUPANT OF A DISORDERLY HOUSE – Any person not the keeper of a disorderly house, who lives and abides in such disorderly house or is employed at, visits or attends a gathering in a disorderly house, lot, parking area or other place, knowing that such house is a disorderly house as defined herein.

PUBLIC DISTURBANCE - Any act by a host or a person attending a gathering, including, but not limited to, public drunkenness, any other open container ordinance, underage drinking, possession or use of illegal drugs, public urination or defecation, unlawful deposit of trash or litter on public or private property, damage to or destruction of public or private property, obstruction of public roads, highways, or sidewalks, interfering with emergency or police services, violation of Articles III, IV or V hereof, indecent exposure, fighting, or violations of any other Borough ordinance. As used in this article, a public disturbance shall also include violations of the Property Maintenance Code caused by any act by a host or a person attending a gathering including, but not limited to, those acts referred to herein.

§502. Maintenance of a disorderly house prohibited; arrest of violator.

No person shall permit, keep, maintain, or be a keeper, host or an occupant of a disorderly house within the Borough. Violators are subject to the penalties of this ordinance upon conviction before a District Judge having jurisdiction.

§503. Disorderly gatherings prohibited.

No host, occupant or other person attending a gathering shall commit any act constituting a public disturbance. No host shall hold, conduct, or permit a gathering where any act of public disturbance occurs thereat nor shall the host permit a gathering to continue if any act of public

disturbance has occurred or is occurring. Violations shall include instances where police services and/or code enforcement services are needed to respond to a public disturbance or the effects of a public disturbance.

§504. Violations used to determine nuisance.

Violations of certain sections of the Property Maintenance Code and local ordinances and state criminal statutes directly affect the safety, welfare, and quality of life of the citizenry. Violations of the following ordinances or statutes, as amended from time to time, shall be utilized to determine whether a property is a nuisance property:

- A. Borough of Smithton Property Maintenance Code
- B. Sections 403, 404, 502 and 503 of this Chapter
- C. Any of the following Statutes:

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| Title 18 Section 5501, 18 Pa. C.S.A. §5501 | Riot |
| Title 18 Section 5502, 18 Pa. C.S.A. §5502 | Failure to disperse |
| Title 18 Section 5503, 18 Pa. C.S.A. §5503 | Disorderly conduct |
| Title 18 Section 5505, 18 Pa. C.S.A. §5505 | Public drunkenness |
| Title 18, Section 5507, 18 Pa. C.S.A. §5507 | Obstructing highways and other public passages |
| Title 18, Section 5511, 18 Pa. C.S.A. §5511 | Cruelty to animals |
| Title 18, Section 6301, 18 Pa. C.S.A. §6301 | Corruption of minors |
| Title 18 Section 6308 18 Pa. C.S.A. §6308 | Underage drinking |
| Title 18 Section 6310.1, 18 Pa. C.S.A. §6310.1 | Selling and furnishing liquor, malt or brewed beverages to minors |
| Title 18 Section 6314, 18 Pa. C.S.A. §6314 | Trafficking drugs to minors |
| Title 18 Section 6315, 18 Pa. C.S.A. §6315 | Selling or furnishing butane to minors |
| Title 18 Section 6316, 18 Pa. C.S.A. §6316 | Selling or furnishing certain stimulants to minors |
| Title 18 Section 6318, 18 Pa. C.S.A. §6318 | Unlawful contact or communication with minors |

§505. Enforcement.

It shall be the duty of the police officers of the Borough to suppress, close and keep closed any disorderly house, and to arrest a person who holds or conducts a disorderly gathering, and to arrest all occupants and other persons found in a disorderly house or attending a disorderly gathering. If the occupant or any other persons within such disorderly house, or those attending a disorderly gathering, refuse to permit any police officer of the Borough to enter the same, the officer may enter the disorderly house or cause the same to be entered by whatever force is necessary, and to arrest, by issuance of citation or otherwise, all occupants and other persons found therein.

§506. Repeat violations.

It shall be a violation of this article if a property owner owns a property at which three or more violations or any statute or ordinance listed in Section 504, or any combination thereof, occurred within a twelve month period after the effective date of this Ordinance.

§507. Penalties.

1. Any person, partnership, corporation or other entity who shall violate any provision of this Part shall be guilty of a summary offense, and, upon conviction thereof, be sentenced to pay a fine of not less than three hundred dollars (\$300.00) nor more than six hundred dollars (\$600.00), together with costs of prosecution, and may be imprisoned for a period up to ten (10) days. Every day that a violation of this Part continues shall constitute a separate offense.
2. Any property owner who violates Section 506 of this article shall be determined to be guilty of a summary offense as a repeat offender and, upon conviction of a repeat violation, shall be sentenced to pay a fine of not less than \$500 and not more than \$1,000. If another violation of Section 1 occurs within twelve months after the date of a conviction for a repeat violation, the owner shall be subject to an additional fine of \$1,000 for that violation. In the event that a second violation of Section 1 occurs within such twelve month period after the date of a conviction for a repeat violation, the property owner's occupancy license for that property shall be revoked for a period of 12 months commencing on the date of the conviction for such violation.

§508. Notice of violation to property owner.

In an effort to keep the owners of private property aware of criminal conduct on their property resulting in disturbances to other citizens, whenever a person other than the property owner is cited under the provisions of this article, the owner may be notified that such disturbance occurred on his, her or its property.

Upon the second incident involving any of the violations enumerated under Section 504 or similar, the property owner shall be notified, in writing, by the Borough. Upon a subsequent incident involving a violation of any of the enumerated violations under Section 504 or similar, the property owner shall be charged in accordance with Section 507 (2) of this article. The property owner shall also be notified of the penalties for subsequent violations, including revocation of the property occupancy permit for the period outlined, and shall be informed that no further notification will be sent. The Chief of Police and Code Enforcement Officer will provide information to the Borough pertaining to repeated responses to a property under the provisions of this article.

Part 6

Severability

The provisions of this Ordinance shall be severable and if any of its provisions or other parts shall be held to be unconstitutional, illegal, unenforceable or otherwise invalid, such shall not affect the validity and enforceability of the remaining provisions and other parts of this Ordinance. Borough Council hereby declares its legislative intent to be that this Ordinance would have been adopted had such unconstitutional, illegal, unenforceable or otherwise invalid provisions or parts not been included herein.

Part 7

Savings Clause

The provisions of this Ordinance, or any other Ordinance or regulation in force prior to the enactment of this Ordinance, are intended as a continuation of those existing Ordinances and regulations and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any existing or repealed Ordinance, regulation or parts thereof.

Part 8

Inconsistent Ordinances Repealed

All Ordinances or parts of Ordinances of the Borough of Smithton are hereby repealed only to the extent the same are irreconcilably inconsistent herewith.

**Borough of Smithton
Westmoreland County, Pennsylvania**

ORDINANCE NUMBER 228 of 2021

**ADDITIONS TO CHAPTER 4: BUILDINGS, CHAPTER 6: CONDUCT AND QUALITY OF LIFE,
CHAPTER 20: SOLID WASTE**

AND NOW, this 11th day of October, 2021, the Borough Council of the Borough of Smithton, Westmoreland County, Pennsylvania does hereby enact and ordain as follows:

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 in the Borough, regarding conduct and quality of life in the Borough, and regarding solid waste and trash collection in 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, 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;

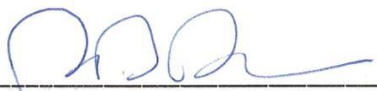
NOW, THEREFORE, the Borough Council does enact and ordain that the material contained herein be added to three different Chapters of the Borough Ordinance book, namely Chapter 4: Buildings, Chapter 6: Conduct and Quality of Life, and Chapter 20: Solid Waste and to be published and enforced as necessary for the benefit of the Borough, its residents and its guests.

IN WITNESS THEREOF, the Council of the Borough of Smithton has adopted and enacted this Ordinance the day and year first above written.

THIS ORDINANCE IS DULY ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF SMITHTON AT A PUBLIC MEETING HELD THE 11TH DAY OF OCTOBER, 2021 AND SHALL TAKE EFFECT IMMEDIATELY.

Attest:


Jennifer Perry, Borough Secretary


Fred R. Foster, President of Council

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 11th day of October, 2021.


Christine Tutena, Mayor