

CHAPTER 10

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PART 1

HEALTH REGULATIONS

§101. Definitions

APARTMENT — any hotel, apartment, motel, cabin and any other rented or leased living quarters.

ASHES — the residue from the burning of wood, coal, coke and other combustible materials used for the purpose of heating and cooking.

BOROUGH — the Borough of Wyomissing.

CHEMICAL TOILET — a permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control. [Ord. 1185]

FOOD — all articles used for food, drink, confectionery or condiment, including ice, whether simple, mixed, compound, solid or liquid and all substances or ingredients used in the preparation thereof. [Ord. 1185]

GARBAGE — the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

HEALTH OFFICER — the Health Officer, or Assistant Health Officer, of the Borough of Wyomissing.

ITINERANT VENDOR — any person whose place of business for the sale in question is located in a vehicle or other moveable conveyance, whether self-propelled or propelled by vehicle, animal or human power or any person whose place of business for the sale in question is located in or on a street, sidewalk, privately or publicly owned parking lot or other public place in the Borough and who changes location from place to place for selling purposes during the course of business. Categories of itinerant vendors are as follows:

- A. MOBILE FOOD STORE — sales are limited to prepackaged food sold from the vehicle; no food is prepared on the vehicle.
- B. MOBILE FOOD VENDOR — food for sale is prepared, handled prior to packaging, and/or packaged on the vehicle prior to sale.

[Ord. 1229]

PERSON — any natural person, partnership, association, firm or corporation. The singular includes the plural and the masculine includes the feminine and the neuter.

PUBLIC SWIMMING POOL — any body of water in an artificial or semi-artificial receptacle or other container whether located indoors or out, and used or intended to be used for swimming, excepting such body of water that is used exclusively by the immediate family of the owner or lessor of such body of water.

RESTAURANT — any restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, club, sandwich stand, drugstore and soda fountain serving food, and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale on the premises or elsewhere, including itinerant vendors of food. [Ord. 969]

RUBBISH — all waste materials not included in the terms “garbage” and “ashes,” except such other waste materials as are not commonly produced in homes, stores and institutions.

TEMPORARY VENDOR — any person whose place of business for the sale in question is located in a vehicle or other moveable conveyance, whether self-propelled or propelled by vehicle, animal or human power, or any person whose place of business for the sale in question is located in or on a street, sidewalk, privately or publicly owned parking lot or other public place in the Borough and who remains in essentially one location for selling purposes during the course of business. Categories of temporary vendors are as follows:

- A. **MOBILE FOOD STORE** — sales are limited to prepackaged food sold from the vehicle; no food is prepared on the vehicle.
- B. **MOBILE FOOD VENDOR** — food for sale is prepared, handled prior to packaging, and/or packaged on the vehicle prior to sale.

[Ord. 1229]

(Ord. 626, 4/14/1959, §1; as amended by Ord. 969, 9/14/1976, §§1, 2; as amended by Ord. 1137, 7/9/1991, §1; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1229, 8/13/2002, §1)

§102. Sale and Preparation of Food

1. **Itinerant Vendors.** For the purposes of protecting the health and safety of the people and keeping the streets and other places within the Borough in a neat and clean condition, the sale of food by itinerant vendors shall be subject to and governed by the following regulations and standards:
 - A. All itinerant vendors must apply for and be in receipt of an itinerant food vending permit issued by the Borough prior to initiating sales in the Borough, in compliance with the provisions of §102(3) of this Part. All such ven-

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dors must be in compliance with each and every rule and regulation of the Department of Agriculture of the Commonwealth of Pennsylvania.

- B. Any vehicle or conveyance used for itinerant vending purposes shall have at least one adequate litter receptacle securely attached to the exterior thereof in a place which is conspicuous and convenient for use.
 - C. Prior to the sale of any food or any other merchandise from a vehicle or conveyance by an itinerant vendor, the said vehicle or conveyance shall be properly parked in a legal parking space.
 - D. Prior to departure from any area, each itinerant vendor shall remove any litter or rubbish resulting from food sales.
 - E. Itinerant vending shall be and is hereby specifically prohibited in the residential areas of the Borough as well as in Borough park land, recreational areas and school areas in the Borough.
 - F. Itinerant vending shall be and is hereby prohibited on both sides of Eighth Avenue, from Penn Avenue to the Reading company right-of-way; on both sides of Hill Avenue, from Eighth Avenue to Park Road; on both sides of Park Road, from Penn Avenue to the Reading company right-of-way; on Berkshire Boulevard and State Hill Road; and on both sides of Penn Avenue throughout its entire length in the Borough.
2. Temporary Vendors. For the purposes of protecting the health and safety of the people and keeping the streets and other places within the Borough in a neat and clean condition, the sale of food by temporary vendors shall be subject to and governed by the following regulations and standards:
- A. All temporary vendors must apply for and be in receipt of a temporary food vending permit issued by the Borough prior to initiating sales in the Borough, in compliance with the provisions of §102(3) of this Part. All such vendors must be in compliance with each and every rule and regulation of the Department of Agriculture of the Commonwealth of Pennsylvania.
 - B. Any vehicle or conveyance used for temporary vending purposes shall have at least one adequate litter receptacle securely attached to the exterior thereof in a place which is conspicuous and convenient for use.
 - C. Prior to the sale of any food or any other merchandise from a vehicle or other conveyance by a temporary vendor, the said vehicle or conveyance shall be properly parked in a legal parking space or other location approved by the Borough.
 - D. Prior to departure from any area, each temporary vendor shall remove any litter or rubbish resulting from food sales.

- E. The Borough may require temporary vendors to have access to utility connections and/or public sanitary sewer.
 - F. Except as provided in paragraph G, only temporary vendors operating on behalf of not-for-profit organizations in connection with a fair, public exhibition or similar transitory gathering shall be permitted to operate within the Borough upon the approval of the Recreation Director, or in his/her absence, the Recreation Board Chairperson.
 - G. Temporary vendors operating on a for-profit basis shall be permitted to operate on Borough owned property in connection with a fair, public exhibition or similar transitory gathering upon the approval of the Recreation Director, or in his/her absence, the Recreation Board Chairperson.
3. Vending Permits.
- A. The Borough may issue an itinerant food vendor permit for a time period not to exceed six (6) consecutive calendar months, regardless of whether the establishment operates continuously during this time. All conditions with respect to §102(1) of this Part, “itinerant vendors”, shall apply. Any itinerant food vending permit issued shall be prominently displayed at the site.
 - B. The Borough may issue a temporary food vending permit for a time period not to exceed 12 hours per day and six (6) consecutive days. All conditions with respect to §102(2) of this Part, “temporary vendors”, shall apply. Any temporary food vending permit issued shall be prominently displayed at the site.
 - C. Vending permit fees shall be set from time to time as the Borough may deem necessary through adoption of an appropriate resolution.

4. Retail Food Establishments.

The operator or person in charge of every retail food establishment in the Borough shall comply with each and every of the rules and regulations of the Department of Environmental Protection and the Department of Agriculture of the Commonwealth of Pennsylvania currently in effect from time to time, which rules and regulations are hereby incorporated herein by reference.

(Ord. 626, 4/14/1959, §2; as amended by Ord. 969, 9/14/1976, §§3-6; as amended by Ord. 1137, 7/9/1991, §2; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1201, 4/13/1999, §1; as amended by Ord. 1229, 8/13/2002, §2; as amended by Ord. 1316, 10/11/2011, §2)

§103. Animals and Fowl

- 1. Housing, Care and Control of Animals and Fowl.

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- A. The owner and/or custodian of any animal who knows or is informed by the Health Officer of the Borough or any other governmental unit that such animal has bitten any person, shall cause such animal to be inspected by a licensed veterinarian for rabies; if such animal shall be found to have rabies, the owner and/or custodian shall cause it to be destroyed.
- B. The raising or breeding of animals or fowl of any kind, excepting household pets not raised or bred for commercial purposes, is prohibited within the Borough limits zoned in residential.
- C. No person shall bring any animal upon any property used for education, public or recreational purposes, nor shall any person permit any animal to enter upon any property used for such purposes, provided this shall not preclude any use of a seeing eye dog. [Ord. 938]

2. Dead Animals.

- A. The carcass of any animal which shall have died within the limits of the Borough shall be removed within 24 hours and properly disposed of by the owner of the animal if the owner be known, or it shall be removed by the Borough at the expense of the owner at a cost to be established by resolution of Borough Council. [Ord. 1185]
- B. In case of ownership is unknown and the carcass is found on a street, alley or other place in the Borough, it shall be removed by the Borough, at the expense of the Borough. The disposal of all dead animals shall be under the direction of the Borough and in accordance with State Law. [Ord. 1185]

(Ord. 626, 4/14/1959, §3; as amended by Ord. 938, 11/12/1974, §1; as amended by Ord. 1137, 7/9/1991, §2; as amended by Ord. 1185, 5/13/1997)

§104. Chemical Toilets

1. General.

- A. Chemical toilets or other portable toilets shall meet the installation specifications of the manufacturer and be maintained in a manner that will preclude any potential pollution or health hazards.
- B. Where multiple chemical toilets or other portable toilets are proposed for temporary use at construction sites, recreational activities or seasonal facilities, all units proposed for installation shall be included under one permit.
- C. Contractors are permitted to use chemical toilets or other portable toilets for temporary use only at construction sites. Such chemical toilets or other portable toilets shall be placed so as not to be offensive to neighboring prop-

erty owners. Chemical toilets or other portable toilets shall meet the installation specifications of the manufacturer and shall be maintained and cleaned in a manner that will preclude any potential pollution or health hazard.

[Ord. 1185]

2. This Section shall be construed as supplementary to Borough Ordinance 480 [Chapter 18, Part 2], as amended, and in no way is to be construed as repealing said Ordinance 480 [Chapter 18, Part 2] and its amendments and supplements.

(Ord. 626, 4/14/1959, §4; as amended by Ord. 1137, 7/9/1991, §2; as amended by Ord. 1185, 5/13/1997)

§105. Water

1. Swimming Pools.

A. The water in all public swimming pools shall be analyzed weekly by the owner or operator of such pools when it is in operation and a copy of such analysis must be sent to the Borough within two weeks of taking the same. [Ord. 1137]

B. All public swimming pools and adjacent ground shall be kept clean of rocks, broken glass or any other matter that would be dangerous to the well being of users of such pool. No person having any skin eruptions or abrasions, sores or infected eyes, a cold, nasal or ear discharge or any communicable disease shall be permitted to use a public swimming pool.

2. Public Drinking Fountains. Public drinking fountains, as installed under the Borough Plumbing Code, shall be of an approved type and shall be kept clean and sanitary at all times by the owner thereof. [Ord. 1185]

3. Pollution. Pollution of springs, wells or any body of water by any person is prohibited. The washing of cars or vehicles of any kind, animals or any other article in or around streams, springs or any body of water within the Borough limits is prohibited.

4. Stagnant Water and Mosquito Breeding Areas. Any person who owns or occupies any property upon which there is located any body or pool of stagnant water or any mosquito breeding place (except approved stormwater management retention/detention ponds) must drain and fill in the same or otherwise correct such condition. [Ord. 1185]

(Ord. 626, 4/14/1959, §7; as amended by Ord. 1137, 7/9/1991, §2; as amended by Ord. 1185, 5/13/1997)

§106. General Health Provisions

1. General.
 - A. No person shall place or throw in or upon any public or private lot, building, street or alley any tin cans, broken glass, ashes or other objectionable matter, or any organic matter subject to decomposition, or shall allow kitchen, laundry or any other liquid waste from property owned by him/her to run into any alley, street, lot, building or open gutter along any street or alley or to accumulate upon the surface of the ground at any place in such a manner as to become offense, or to constitute a hazard to public health.
 - B. No person shall spit on any sidewalk, in any bus or public conveyance, or on the floor or steps of any public hall or building.
 - C. No person shall maintain or permit to be maintained on any property owned or occupied by him/her any condition productive of a nuisance detrimental to the public health or which may be so declared by the Borough and upon receipt of a written notice from the Borough that such a condition exists on a property owned or occupied by him/her, it shall be his/her duty to abate the nuisance created thereby to the satisfaction of the Borough within the time limit specified in such notice.
 - D. No person shall refuse to admit the Health Officer or physician deputized by the Borough or any other authorized agent of the Borough to their premises at any time or shall in any way interfere with or hinder any authorized agent of the Borough in the performance of his/her duties in making investigations of a suspected case of a nuisance or any other matter which might be a menace to the public health.
2. Public Lavatories. All public lavatories, whether located on public or private property, shall be kept clean and in a sanitary condition at all times and shall be supplied with hot and cold running water, soap and clean individual towels or other State approved methods for drying. Toilet doors shall be fitted with self-closing springs.
3. Obnoxious and Offensive Businesses. The carrying on of any manufacture, art, trade or business which is obnoxious, offensive or otherwise detrimental to the health of the residents of the Borough is prohibited.

(Ord. 626, 4/14/1959, §10; as added by Ord. 1185, 5/13/1997)

§107. Fees (Repealed by Ord 1316, 10/11/2011, §3)

§108. Penalties

1. Any person including, but not limited to, those persons referred to in §102(1)(A) of this Part, who shall fail, neglect or refuse to comply with or who shall violate any of the provisions of this Part or who shall resist or interfere with the Health Officer or the Borough or its authorized agents or employees in the performance or discharge of his/her or their duties as provided herein, and in the State health laws, shall for every such offense, upon conviction thereof, be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day or portion thereof during which such violation shall continue shall be deemed a separate offense and punishable as such. [Ord. 1185]
2. If any violation of this Part constitutes a violation of any Act of Assembly of Pennsylvania for which a penalty is provided by law, with which the penalty provided by this Part may be inconsistent, the penalty provided by the Act of Assembly shall take precedence and shall be the penalty imposed for such violation.

(Ord. 626, 4/14/1959, §12; as amended by Ord. 938, 11/12/1974, §2; as amended by Ord. 969, 9/14/1976, §8; as amended by Ord. 1137, 7/9/1991, §2; as amended by Ord. 1185, 5/13/1997)

§109. Appeals

Appeals of denials of permits relating to the provisions of this Part shall be made to the Borough of Wyomissing Infrastructure Committee in writing explaining the reasons within 14 days of the date of the permit denial. The Infrastructure Committee shall conduct the review and provide its decision within 15 days of receipt of the written appeal.

(Ord. 626, 4/14/1959; as added by Ord. 1229, 8/13/2002, §3)

PART 2

EMERGENCY OPERATIONS PLAN

§201. Adoption of Emergency Operations Plan

The undersigned Councilmen of Wyomissing Borough Council do hereby approve, adopt and place into immediate effect the Emergency Operations Plan of Wyomissing Borough. This Plan shall be reviewed on an annual basis to make certain that it conforms with the requirements of the Berks County Emergency Operations Plan.¹

(Res. 00-12, 11/14/2000)

¹ Editor's Note: The Emergency Operations Plan may be found on file in the Borough Office.

PART 3

Sinkholes

§301. Public Nuisance

Any sinkholes, the location of which endangers the foundation of any building, which may cause a building or structure to shift or subside, or which is located in or in close proximity to a parking lot, parking area, driveway, roadway, sidewalk, pathway, detention basin, stormwater swale, any municipal infrastructure, or any utility infrastructure is hereby declared to be a public nuisance.

§302. Property Owner Responsible for Repairs

The Borough Code Officer shall give written notice to the property owner of any property upon which a sinkhole, which is a public nuisance, is located and direct that the sinkhole be promptly and properly repaired. Immediately upon receipt of such notice, the property owner shall erect such barriers, fences, signs or other means to protect the public from the dangers of the sinkhole. The owner of the property on which the sinkhole is located shall complete all such repairs no later than thirty (30) days of written notice from the Borough.

§303. Extension to Complete Repairs

If the property owner fails to complete all repairs to the sinkhole within thirty (30) days after written notice from the Borough, the owner shall be considered in violation of this Ordinance. If the owner cannot complete the repairs to the sinkhole within thirty (30) days after written notice from the Borough, the owner may submit in writing prior to the expiration of the thirty (30) days provided to complete the repairs a request to the Borough for a one time extension of time up to thirty (30) days to complete the repairs stating the justification and basis for the time extension. Granting of the one-time thirty (30) extension to complete the repairs to the sinkhole shall be reviewed by the Borough Manager. It shall be at the discretion of the Borough Manager whether to grant the request for a one time thirty (30) day extension to complete repairs to the sinkhole. Any additional requests for time extensions to complete sinkhole repairs shall be presented to Borough Council.

§304. Violation and Penalties

- A. Any person, partnership or corporation who or which has violated, or permitted the violation of the provisions of this chapter, shall upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$600 plus court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Justice. If the defendant neither pays nor timely appeals the judgment, the

Borough may enforce the judgment pursuant to the applicable rules or civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorneys' fees collected for the violation of this Part shall be paid to the Borough.

- B. The Court of Common Pleas, upon petition, may grant an order or stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this Part shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this Part.

§ 305. Abatement of Sinkhole

The imposition of penalties herein prescribed shall not preclude the Borough from instituting appropriate action to restrain, correct or abate a violation.

(Ord. 1357, 1/14/2014 §§1-2)