

## **Chapter 10**

### **Health and Safety**

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**Part 1****Nuisances****§10-101. Short Title.**

This Part shall be known and may be cited as the “Dauphin Borough Nuisance Ordinance.”

(*Ord. 91-5, 10/8/1991, §1*)

**§10-102. Definitions.**

The following terms shall be defined as follows:

*Automobile*—a vehicle for the transportation of persons or property on the highway, carrying its own motive power and not operated on fixed tracks.

*Garbage*—any animal or vegetable matter (including table refuse) and other materials ordinarily used for food which have become unfit for such use.

*Person*—any natural person, partnership, firm or corporation.

*Rubbish*—discarded articles, materials or refuse, whether combustible or noncombustible, including trash.

(*Ord. 91-5, 10/8/1991, §2*)

**§10-103. Acts of Nuisance.**

The following acts shall constitute an act of nuisance within the Borough:

A. To leave or dump any garbage or rubbish unattended unless in an authorized container and at a place to be collected in the ordinary course of business by the Dauphin Borough trash collector. In no event shall such containers of garbage or rubbish be left unattended for more than 72 hours.

B. To store abandoned automobiles on any public or private property in the Borough, unless such automobile is stored in a garage or similar building. An automobile shall be rebuttably presumed to be abandoned in the event it does not have both a current registration and a current inspection sticker properly placed thereon. [*Ord. 93-2*]

C. To park or store any recreational vehicle, motor home, truck tractor, trailer (including, but not limited to, any boat trailer, travel trailer or truck trailer) or any combination of the foregoing, on the Borough streets for more than 1 day during any 7-day period. [*Ord. 93-11*]

D. To own or possess, and permit the presence of a structure in which any of the following conditions are present:

(1) The structure is in a dilapidated or deteriorating condition, and in an advanced state of disrepair.

(2) The structure is without heat or electricity, and not secure from conditions which will cause deterioration.

(3) The exterior walls consist of single boards sheathed over open

studding.

(4) The window frames and/or sashes are broken or rotted, and beyond repair.

(5) The floor boards are broken or rotted and beyond repair.

(6) The roof is leaking, and beyond repair.

(7) A serious fire hazard is present due to large quantities of combustible materials which are not safely stored.

(8) The structure is infested with vermin and/or insects.

(9) The area surrounding the structure has been left untended, and a condition of overgrowth of grass and/or weeds is evident.

E. To occupy a recreational vehicle on the Borough streets for a period of more than 2 days.

F. To permit or create any other condition or nuisance, which would be declared a nuisance per se at common law.

G. Any dismantled and nonoperable vehicle shall be housed within a structure, and no parts of such vehicle or other similar vehicles shall be stored or otherwise maintained outside of a structure except in a Commercial/Industrial District. A vehicle shall be considered dismantled and nonoperable if it does not display the current Pennsylvania state inspection certificate and is manifestly incapable of being locomotive in its existing condition. [Ord. 97-2]

H. *Use of Engine Brakes.*

(1) *Operation of Engine Brakes Declared a Nuisance.* The Borough Council of Dauphin, Dauphin County, Pennsylvania, finds as a fact that the operation of an engine brake, also known as a “jake brake,” on a gasoline or diesel powered motor vehicle not equipped with exhaust mufflers, or equipped with defective or modified exhaust mufflers, so as to create excessive noise through the use of said engine brake, adversely affects the public health and welfare of the residents of the Borough of Dauphin, and therefore, is a nuisance in fact.

(2) *Prohibition.* No gasoline or diesel powered motor vehicle shall be operated on the streets, roads, alleys or highways within the Borough of Dauphin, Dauphin County, Pennsylvania, utilizing, in said operation, an engine brake, also known as a “jake brake,” permitting excessive noise to be created by said motor vehicle.

(3) *Use Permitted in Emergency Situations.* This paragraph shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of Dauphin Borough, other motor vehicle operators, pedestrians, and the operator and passengers of the motor vehicle in question.

(4) *Penalties.* Any driver and/or the firm or corporation for whom the driver is employed who shall violate any provision of the paragraph, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay 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 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2012-03]

[Ord. 99-3]

(Ord. 91-5, 10/8/1991, §3; as amended by Ord. 93-2, 5/4/1993, §§1 and 2; by Ord. 93-11, 12/7/1993, §1; by Ord. 97-2, 2/4/1997; by Ord. 99-3, 11/3/1999, §§1–4; and by Ord. 2012-03, 12/4/2012)

#### **§10-104. Notice to Abate.**

Any person causing or maintaining an act of nuisance on any public or private property in the Borough of Dauphin shall, after reasonable notice to abate from the Zoning Officer or Police Department, remove any such nuisance, or suffer prosecution for a summary offense before the magisterial district judge; provided, however, that no such notice shall be required if a notice to abate the type of nuisance in question was sent to the person currently causing or maintaining the act of nuisance at any time during the 6-month period immediately preceding the current act of nuisance.

(Ord. 91-5, 10/8/1991, §4; as amended by Ord. 93-9, 9/7/1993, §1; and by Ord. 2012-03, 12/4/2012)

#### **§10-105. Penalty.**

Any person who violates the provisions of this Part shall, upon conviction by the magisterial district judge as provided by law, be sentenced to one or more of the following penalties: [Ord. 2012-03]

A. Costs to remove store, dispose and/or abate the nuisance, as those costs may be incurred by the Borough or its representative.

B. A fine not to exceed \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2012-03]

(Ord. 91-5, 10/8/1991, §5; as amended by Ord. 2012-03, 12/4/2012)

#### **§10-106. Civil Remedies Available.**

The Borough Council is also authorized to institute proceedings in the Court of Common Pleas of Dauphin County to seek other legal relief under the Borough Code, 53 P.S. §45101 *et seq.*, or equitable relief as may be deemed necessary to protect and safeguard the interests of the Borough and its citizens.

(Ord. 91-5, 10/8/1991, §6)



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**Part 2****Open Burning****§10-201. Title.**

This Part shall be known and may be cited as the “Borough of Dauphin Air Pollution Control Burning Ordinance of 2007.”

(*Ord. 07-08, 10/2/2007, §I*)

**§10-202. Authority.**

The Borough Council of the Borough of Dauphin, under, by virtue of, and pursuant to the authority granted by the Borough Code, 53 P.S. §45101 *et seq.*, does hereby enact and ordain this Part.

(*Ord. 07-08, 10/2/2007, §II*)

**§10-203. Policy.**

The Borough Council of the Borough of Dauphin has determined that air pollution from open burning may be detrimental to the health, comfort, living conditions, welfare, and the safety of the citizens of Dauphin Borough, it is hereby declared to be the policy of the Borough of Dauphin from such air pollution.

(*Ord. 07-08, 10/2/2007, §III*)

**§10-204. Definitions.**

*Contained fire or burning*—burning which takes place in a fireproof masonry fireplace or metal container. This would include a 55-gallon drum.

*Uncontained fire or burning*—any fire except a contained fire.

*Competent adult*—a person who is at least 18 years of age and is not under the influence of drugs or alcohol, or suffering from any disability which would impair the individual’s ability to properly supervise a fire.

(*Ord. 07-08, 10/2/2007, §IV*)

**§10-205. Regulations.**

1. No uncontained fire shall be set or maintained within 15 feet from any property line to ensure that no obnoxious odors are discharging.

2. No uncontained fire shall be set or maintained on any public road or public property.

3. No burning during a drought condition or in a high wind condition and this shall be determined by the Mayor, Chief of Police, Zoning Officer, or the Fire Chief.

4. Burning with supervision by a competent adult. Unsupervised burning can be ordered extinguished by the Mayor, Chief of Police, Zoning Officer, or the Fire Chief.

5. No burning within 15 feet of any building, structure, automobile, garbage or waste container, or any other combustible substance.

6. No burning within 50 feet from any propane, gas, or oil tanks.

7. No fire shall be set or maintained for the purpose of burning materials releasing obnoxious odors, dense smoke, or fly ash. The following items should never be burned: garbage, plastics, styrofoam, chemicals, any hazardous materials, tires, roofing materials, animal waste, carpet, insulation, shingles, furniture, mattresses or box springs, solvents, treated wood, paints, any type of building supplies, or vegetable waste.

8. No large contained or uncontained fire shall be allowed unless approved by the landowner, and a 24-hour notice is given to either the Dauphin-Middle Paxton Fire Company #1 or Dauphin County Dispatch.

9. Controlled burns should be started after sunrise and completed by 9 p.m. so no smoke is visible.

10. The burning should be at least 15 feet from the edge of any road.

11. All controlled burns or burning in your yard for recreation is acceptable in the following containers; fireproof masonry fireplace, fire ring, metal burner, or chimnea's. However, a competent adult must supervise and have a hose ready to extinguish the fire if necessary chimnea's must follow the same regulations that are in subsection .5. The recreational fire should be extinguished by 2 a.m.

12. Bonfires shall not be permitted unless special exception is made by the Borough Council of Dauphin and the Fire Department would need to be on standby.  
(*Ord. 07-08, 10/2/2007, §V*)

#### **§10-206. Enforcement Orders.**

1. The Mayor, Chief of Police, Zoning Officer, or Fire Chief shall have the power and duty to enforce the provisions of this Part.

2. The Borough of Dauphin may issue orders to assist the Mayor, Chief of Police, Zoning Officer, or Fire Chief if an individual or individuals is in violation of this Part. Orders requiring persons to cease unlawful open burning, orders to take corrective action or to abate a public nuisance, orders that would require the testing, sampling, or monitoring of any open burning.

(*Ord. 07-08, 10/2/2007, §VI*)

#### **§10-207. Criminal Penalties.**

Any person, firm or corporation who shall violate any provision of this Part or any order issued by the Borough of Dauphin hereunder, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$50 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 07-08, 10/2/2007, §VII; as amended by Ord. 2012-03, 12/4/2012*)



**Part 3****Recreational Vehicle Nuisances****§10-301. Definitions.**

*Occupant*—a person who regularly resides on the property in question.

*Owner*—any person who has legal or equitable title to the property on which a recreational vehicle is being operated.

*Person*—an individual, group of individuals, a partnership, firm, association, or any other entity.

*Recreational vehicle*—all motorized vehicles, designed or redesigned or otherwise being used for off-road recreational use, including but not limited to the following:

- A. Motorcycles.
- B. Trail bikes.
- C. All terrain vehicles (ATVs).
- D. Go carts.
- E. Snowmobiles.
- F. Any other similar motorized vehicle.

The term “recreational vehicle” shall not include motorized vehicles for law enforcement, fire, emergency, military, or other governmental purposes, or off-road motorized vehicles used as utility vehicles for agricultural, husbandry, lawn care, snow removal or business operations.

(Ord. 2012-03, 12/4/2012)

**§10-302. Operation and Use of a Recreational Vehicle on Private Property.**

The following regulations shall apply for the use of a recreational vehicle on private real property:

A. *Owner or Occupant.* Only the owner or an occupant shall be permitted to operate a recreational vehicle on private real property.

B. *Setback Requirements.*

(1) *General Rule.* A person operating a recreational vehicle must remain at least 250 feet from any adjoining or adjacent property line, and must remain at least 300 feet from an off-site residential dwelling.

(2) *Exception.* A person may operate a recreational vehicle closer than 250 feet from any adjoining or adjacent property line or 300 feet from an off-site residential dwelling; provided, that the following additional requirements are followed:

(a) For each ½-hour period of operation of a recreational vehicle, there must be a rest period of at least 3 hours in between the next operation of a recreational vehicle;

(b) No more than two recreational vehicles may be operated at the same time.

(c) A minimum setback of 100 feet from the property line must be maintained.

C. *Time Period.* A person shall operate a recreational vehicle between the hours of 10 a.m. to 7 p.m., prevailing time.

D. *Dust.* A person shall not generate or permit to be generated as a result of the use of any recreational vehicle any dust to cross over onto an adjoining or adjacent property that will interfere with the reasonable use and enjoyment of the residential use of the property, either inside or outside of the residence.

(Ord. 2012-03, 12/4/2012)

**§10-303. Operation and Use of a Recreational Vehicle on Borough Property.**

No person shall operate a recreational vehicle on Borough property without the express written consent of the Borough.

(Ord. 2012-03, 12/4/2012)

**§10-304. Enforcement and Penalty.**

1. A violation of this Part shall be deemed to be a public nuisance, and shall subject the owner of the property and/or any person operating a recreational vehicle in violation of this Part to summary enforcement proceedings.

2. The Mayor is authorized to make an initial determination of a violation of this Part, and to enforce the provisions of this Part. An initial determination of a violation of this Part shall result in a verbal warning to the owner, occupant or operator of the recreational vehicle.

3. A second and subsequent violation shall be subject to summary enforcement proceedings and upon being found guilty thereof shall subject the violator to a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2012-03, 12/4/2012)

**§10-305. Miscellaneous Provisions.**

To the extent applicable, this Part incorporates by reference thereto the provisions of and rules and regulations relating to the "Pennsylvania Snowmobile and All Terrain Vehicle Law," 75 Pa.C.S.A. §7701 *et seq.*

(Ord. 2012-03, 12/4/2012)