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**PART 1**

**NUISANCES**

**A. Motor Vehicle Nuisances**

**§101. Definitions.**

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

LESSEE — owner for the purpose of this Part when the lessor holds the lessee responsible for maintenance and repairs.

MOTOR VEHICLE — any type of mechanical device, propelled by a motor in which persons or property may be transported upon public streets or highways and including trailers or semi-trailers pulled thereby. Specifically excluded from this definition of motor vehicles are farm tractors and farm implements.

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 City of Hermitage.

OWNER — the actual owner, agent, 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.

ENFORCEMENT OFFICER — person designated by the City Manager, charged with the duty of enforcing the regulations of this Part.

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

(Ord. 16-97, 10/22/1997, §1)

**§102. 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 City of Hermitage. A motor vehicle nuisance shall include any motor vehicle which has any of the following physical defects: [Ord. 22-99]

- A. Broken windshields, mirrors or other glass, with sharp edges.

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- B. Missing doors, windows, hood, trunk lid or other body parts which could permit animal harborage.
- C. Any body parts with sharp edges including holes resulting from rust.
- D. Missing tires resulting in unsafe suspension of the motor vehicle.
- E. Broken head lamps or tail lamps with sharp edges.
- F. Protruding sharp objects from the chassis.
- G. Broken vehicle frame and/or motor suspended from the ground in an unstable manner.
- H. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- I. Exposed battery containing acid.
- J. Inoperable locking mechanism for doors or trunk.
- K. Open or damaged floor boards including trunk and firewall.
- L. Damaged bumpers pulled away from the perimeter of the vehicle.
- M. Broken grill with protruding edges.
- N. Loose or damaged metal trim and clips.
- O. Suspended on unstable supports.
- P. Other such defects which could threaten the health, safety and welfare of the citizens of the City.

(Ord. 16-97, 10/22/1997, §2; as amended by Ord. 22-99, 8/25/1999, §1)

### **§103. Storage of Motor Vehicle Nuisances Permitted.**

1. Any person, owner or lessee who has one or more vehicle nuisances as defined in §102, above, may store such vehicle(s) in the City only in strict compliance with regulations provided herein. The motor vehicle nuisance(s) must be stored within a garage or other totally enclosed building.
2. In Commercial, Highway Commercial or Industrial Zoning Districts any person, owner or lessee who has one or more motor vehicle nuisances as defined in §102, above, may also store such vehicle(s) outside within an opaque fence at least six feet high or chain link fence at least six feet high, solidly screened by shrubbery around the perimeter to the height of the fence, with an unobstructed opaque gate

capable of admitting fire and 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 2,000 square feet.

3. Nothing herein shall be construed to permit the storage of motor vehicle nuisances or any activity involving the sale, resale and/or repair of motor vehicles, contrary to the provisions of the City of Hermitage Zoning Ordinance [Chapter 27].

(Ord. 16-97, 10/22/1997, §3)

#### **§104. Inspection of Premises; Notice to Comply.**

1. The Enforcement Officer is hereby empowered to inspect private property on which motor vehicles are stored to determine if there is compliance with the provisions of this Part. If noncompliance with the provisions of this Part constitutes a nuisance or if any condition, structure or improvement poses a 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 that constitutes a nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth therein within 10 days of mailing or posting of said notice, and thereafter to fully comply with the requirements of the notice within a reasonable time.

(Ord. 16-97, 10/22/1997, §4)

#### **§105. Hearing.**

1. Any person aggrieved by the decision of the enforcement officer may request and shall then be granted a hearing before the City of Hermitage Appeals Board; provided, he files with the Appeals Board within 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 30 days after the date on which the petition was filed unless postponed for sufficient cause.
2. After such hearing, the Appeals Board shall sustain, modify or overrule that action of the enforcement officer.

(Ord. 16-97, 10/22/1997, §5)

**§106. Authority to Remedy Noncompliance.**

If the owner of the grounds on which motor vehicles are stored does not comply within the time limit prescribed or fails to appeal within 10 days notice or to take corrective action within 10 days from receipt of the Board of Appeals decision, the City shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs and certify the cost of said action with the City Solicitor.

(Ord. 16-97, 10/22/1997, §6)

**§107. Reimbursement and Liens.**

The City shall bill the owner or occupant for the cost of the necessary corrective action stipulated in §106. If the owner or occupant does not fully reimburse the City for the action within a specified time, the City Solicitor shall file a lien against the property.

(Ord. 16-97, 10/22/1997, §7)

**§108. Penalties.**

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

(Ord. 16-97, 10/22/1997, §8; as amended by Ord. 11-98, 9/23/1998)

**§109. Remedies Not Mutually Exclusive.**

The remedies provided herein for the enforcement of this Part or any remedy provided by law shall not be deemed mutually exclusive, rather they may be employed simultaneously or consecutively.

(Ord. 16-97, 10/22/1997, §9)

**B. Prohibiting the Storage of Abandoned Appliances, Machinery and Equipment**

**§111. Definitions.**

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

LESSEE — owner for the purpose of this Part when the lessor holds the lessee responsible for maintenance and repairs.

NUISANCE — any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of the City of Hermitage.

OWNER — the actual owner, agent or custodian of the property on which machinery, equipment or materials are stored, whether individual or partnership, association or corporation.

PERSON — a natural person, firm, partnership, association, corporation or other legal entity.

(Ord. 9-98, 8/26/1998, §1)

**§112. Storage of Nuisances Prohibited.**

It shall be unlawful for any person to store or maintain abandoned, unused, stripped, damaged and generally unusable appliances, machinery or equipment or construction materials in the open on private property. Such storage shall constitute a nuisance and/or health hazard if any of the following conditions exist:

- A. Broken glass or metal parts with sharp or protruding edges.
- B. Containers which are conducive to the harboring and growth of vermin or animals.
- C. Storage in any manner which would allow the equipment, machinery, material or any parts thereof to easily shift, tilt or fall from its original storage position.
- D. Containers of any liquid or material of a hazardous or potentially hazardous nature, including but not limited to, gasoline, oil, battery acids, refrigeration agents and poisons.
- E. Refrigerators with doors remaining attached.
- F. Any other condition which shall threaten the health, safety or welfare of the citizens.

(Ord. 9-98, 8/26/1998, §2)

**§113. Storage Requirements.**

Storage of such items as listed in §112 hereof on private property shall be permitted only in strict compliance with the regulations provided herein or with stricter regulations in other City of Hermitage ordinances or in State or Federal laws. Each person, owner or lessee desiring to store items in §112 shall store such nuisance within a garage or other enclosed building or, outside, within an opaque fence at least six feet high which is locked at all times when unattended. Nuisances may also be stored outside in an area enclosed by a chain link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, the appliances, machinery, equipment or construction materials shall be kept free of vermin infestation while being stored; and, all gasoline, oil or other potentially hazardous substances shall be removed.

(Ord. 9-98, 8/26/1998, §3)

**§114. Inspection of Premises; Notice to Comply.**

1. The City Inspector is hereby empowered to inspect private property on which appliances, machinery, equipment and/or various construction materials are stored to determine if there is compliance with the provisions of this Part. If noncompliance with the provisions of this Part constitute a nuisance, or if any condition, structure or improvement poses a danger to the health, safety or welfare of the public, he shall issue a written notice to be served by registered 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 considered to be a hazard and/or nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth in the notice within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

(Ord. 9-98, 8/26/1998, §4)

**§115. Authority to Remedy Noncompliance.**

If the owner of property on which appliances, machinery, equipment and/or construction materials are stored does not comply with the City of Hermitage shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus an additional 10% of all costs. The City of Hermitage, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter the offending premises to accomplish the foregoing.

(Ord. 9-98, 8/26/1998, §5)

**§116. Hearing.**

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

(Ord. 9-98, 8/26/1998, §6)

**§117. Penalties.**

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

(Ord. 9-98, 8/26/1998, §7)

**§118. Remedies not Mutually Exclusive.**

The remedies provided herein for the enforcement of this Part, or any remedy provided by law, shall not be deemed mutually exclusive; rather, they may be employed simultaneously or consecutively, at the option of the Board of Commissioners.

(Ord. 9-98, 8/26/1998, §8)



**PART 2**

**GRASS, WEEDS AND OTHER VEGETATION**

**§201. Definitions.**

OCCUPANT — any person who lives in or has actual possession of a residential or nonresidential structure.

OWNER — the owner or owners of real property, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or his authorized representative.

PERSON — the word “person” as used herein shall include the singular and the plural and shall mean and include any person, firm or corporation, association, club, copartnership, society or any other legal entity.

STRUCTURE — anything built, constructed or erected which requires location on the ground or attachment to something located on the ground.

(Ord. 10-83, 9/14/1983, §1)

**§202. Growth of Vegetation Restricted.**

No person owning or occupying any property within the City of Hermitage on which is located a structure, either vacant or occupied, shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon said property so as to exceed a height of eight inches 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 property in the City of Hermitage in violation 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 and residents of the City of Hermitage.

(Ord. 10-83, 9/14/1983, §2)

**§203. Responsibility for Removal, Trimming or Cutting of Vegetation.**

The owner or occupant of any property on which is located a structure, either vacant or occupied, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon said property in violation of the provisions of this Part.

(Ord. 10-83, 9/14/1983, §3)

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### **§204. Enforcement.**

The City Manager, or his authorized representative, is hereby charged with the duty of enforcing the provisions of this Part. All persons shall, within seven days after notice to do so from the City Manager or his authorized representative, cut or destroy and remove such grass, weeds or other vegetation from any property upon which the same is growing or remaining in violation of the provisions of this Part.

(Ord. 10-83, 9/14/1983, §4)

### **§205. Noncompliance; Equitable Remedy.**

In addition to the penalty provided in §207, the City Manager or his representative is hereby authorized, when any person fails to cut or destroy such grass, weeds or other vegetation which is in violation of this Part, after seven days notice to do so, to have such grass, weeds or vegetation cut or destroyed and removed from said property and to certify the cost of said removal to the City Solicitor. The cost of removal shall become a lien upon such property from the time of the cutting or removal of such grass, weeds or vegetation, which date shall be determined by the certificate of the individual or individuals doing the work, and shall be filed with the City Manager.

(Ord. 10-83, 9/14/1983, §5)

### **§206. Exceptions.**

The provisions of this Part shall not apply to the following:

- A. Any persons owning or occupying any lot or parcel of land situated in the City of Hermitage which is vacant and on which no structure is erected.
- B. Any property situated in the City of Hermitage which is utilized predominantly for agricultural purposes.
- C. Parcels of land which do not abut or have any frontage on any public street in the City of Hermitage.

(Ord. 10-83, 9/14/1983, §6)

### **§207. Penalties.**

Any person, firm or corporation who shall violate any of the provisions of this Part shall, for each such violation, upon conviction thereof, be sentenced to pay a fine of not less than \$5 nor more than \$600 plus costs and, in default of the payment of such fine and costs, to undergo imprisonment of not more than 30 days. Each day that a provision of this Part is violated shall be deemed a separate offense.

(Ord. 10-83, 9/14/1983, §7; as amended by Ord. 11-98, 9/23/1998)



**PART 3**

**ENVIRONMENTAL REQUIREMENTS FOR NONRESIDENTIAL PROPERTY**

**§301. Definitions.**

**BASEMENT** — that portion of a building which is partly or completely below grade.

**BUILDING** — any structure having enclosing walls and roofs and requiring a permanent location on the ground.

**EXTERMINATION** — the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other approved pest elimination methods.

**INFESTATION** — the presence within or contiguous to a structure or premises of insects, rodents, termites, vermin or other pests.

**MATERIALS** — any and all equipment, tools, unlicensed vehicles, building materials, raw materials, products, by-products, items being stored for sale or reuse, discarded items, parts for vehicles or equipment, components of products or equipment, and all other items, with the exception of the following which by their nature must be displayed and offered for sale in the open:

- A. Licensed vehicles (new and used cars, trucks, etc.) boats, recreational vehicles, motorcycles.
- B. Tractors, aircraft, lawn maintenance equipment, agricultural equipment.
- C. Swimming pools and swimming pool equipment, hot tubs and spas.
- D. Motor homes, travel trailers, campers.
- E. Burial monuments.
- F. Nursery stock, garden supplies, lawn furniture and fixtures, fencing.
- G. Building supplies, such as brick, stone and lumber.
- H. Fresh produce and other items offered for sale in accordance with the requirements for transient retail businesses [Chapter 13] of the Hermitage Code of Ordinances.

[Ord. 3-88]

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**NONRESIDENTIAL** — any land, structure or use, whether public or private, that is adapted, used or occupied for purposes other than residential use. Nonresidential shall exclude agricultural land, structures or uses.

**OCCUPANT** — any person who lives in or has actual possession of a dwelling unit.

**OPERATOR** — any person who has charge, care or control of a building or premises which are let or offered for occupancy.

**OWNER** — the owner or owners of real property, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or his authorized representative.

(Ord. 11-83, 10/14/1983, §1; as amended by Ord. 3-88, 5/11/1988, §1)

### **§302. General Provisions.**

1. Purposes. The purposes of this Part are:
  - A. To provide minimum standards for the maintenance of safe, sanitary non-residential property, private and public, for all citizens in the City.
  - B. To correct and prevent in all nonresidential properties, conditions that are detrimental to the public health, safety and general welfare.
  - C. To fix responsibilities of owners, operators and occupants of properties.
  - D. To provide for:
    - (1) Services to facilitate the achievement and maintenance of required property standards.
    - (2) Uniform enforcement procedures under a systematic plan covering all commercial properties.
    - (3) Corrective measures.
    - (4) Penalties for noncompliance.
2. Applicability. This Part shall apply to all nonresidential property on which there are either occupied or unoccupied structures.

(Ord. 11-83, 9/14/1983, §2)

**§303. Responsibilities of Parties.**

1. Compliance. The owner of the property shall maintain such premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use premises which do not comply with the following requirements of this Part.
2. Rubbish and Garbage Storage Facilities. Refer to Chapter 20, Solid Waste.
3. Extermination of Pests. Every owner of nonresidential property shall be responsible for the extermination of insects, termites, rodents, vermin or other pests whenever infestation exists.

(Ord. 11-83, 9/14/1983, §3)

**§304. Environmental Requirements.**

1. Sanitation. Refer to Chapter 20, Solid Waste.
2. Grading and Drainage. All exterior property areas shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within, any building or structure located thereon. Water shall not be channeled from one property onto the neighboring property. Planting, property grading, proper drainage or other measures shall be taken to prevent erosion of soil, water runoff, migration of gravel or pebbles, etc., from affecting property, sidewalks or rights-of-way. Further, all exterior property areas shall be graded so as not to impose unnatural grade on neighboring property resulting in property erosion or deterioration of abutting premises.
3. Lawns, Hedges, Bushes and Trees. For grass and noxious weeds, please refer to Ordinance 10-83, [Part 2]. Trees and/or shrubbery shall not obstruct public sidewalks, walkways, unpaved rights-of-way, or the full view of traffic signs. Trees that are in danger of falling, or diseased trees that constitute a threat to other trees shall be promptly removed. Grass or weeds shall not be allowed to grow over the height of eight inches.
4. Public Areas. All walks, driveways, parking spaces and similar paved areas for public use shall be kept in a proper state of repair. If any walk or driveway or portion thereof by virtue of its state of repair shall constitute a danger to public health and safety, the walk or driveway or portion thereof shall be replaced.
5. Demolished Structures. Debris material from structures which have been demolished or burned beyond reasonable repair shall be completely removed from the property and disposed of at State approved disposal sites. Buildings shall be removed to concrete foundations. The basement shall be filled with debris-free material and compacted sufficiently so that no significant settlement shall occur. The final grade shall be flush with the surrounding ground level and the basement

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floor shall be cracked sufficiently to allow for proper drainage. The property owner shall have 30 days from the date the owner was notified, to comply with this Section.

### 6. Storage of Materials.

- A. All materials must be stored within buildings or if outside, then to the rear of the principal building and in an area enclosed by a solid wall or opaque fence, at least eight feet in height. Enclosed material storage areas may be permitted in side yards, if special extenuating circumstances unique to the site or business preclude use of the rear yard. Storage or storage areas shall not be permitted in front yards.
- B. The fence or wall shall be no less than eight feet in height and fully opaque from ground level to top. All access openings which allow a view of stored materials from off the premises shall be closed by an opaque door or gate which is equal to the height of the fence or wall.
- C. Height of stored materials shall not exceed the height of the wall or fence. Storage areas shall not be used for accumulation of refuse, and shall be kept free of vermin.
- D. Properties with existing outside storage areas shall be required to comply with the provisions of this Part within six months of formal enactment.

[Ord. 3-88]

(Ord. 11-83, 9/14/1983, §4; as amended by Ord. 3-88, 5/11/1988, §2)

### **§305. Failure of Owner to Comply.**

In the event of the failure of the owner or holder of the nonresidential property to comply with the provisions of this Part, then the City shall have the right to take appropriate corrective action and bill the owner or holder for the cost thereof.

(Ord. 11-83, 9/14/1983, §5)

### **§306. Penalties to be a Lien.**

The removal, fine and penalties provided herein may be entered by the City as a lien against said property in accordance with existing provisions of lien.

(Ord. 11-83, 9/14/1983, §6)

**§307. Notice of Noncompliance.**

Upon receipt of written notice of noncompliance, the owner shall have 10 days to take corrective action.

(Ord. 11-83, 9/14/1983, §7)

**§308. Penalty.**

Any person, partnership, firm, corporation or other legal entity who shall violate any of the provisions of this Part shall, for every such violation, upon conviction thereof, be sentenced to pay a fine of not less than \$5 nor more than \$600 plus costs and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days. Provided, each day in which a violation of this Part shall exist shall constitute a separate offense.

(Ord. 11-83, 9/14/1983, §8; as amended by Ord. 11-98, 9/23/1998)



**PART 4**  
**HAZARDOUS SPILLS**

**§401. Definitions.**

CITY — the City of Hermitage, Mercer County, Pennsylvania.

FIRE MARSHAL — the Fire Marshal of the City of Hermitage or the designee of same.

HAZARDOUS MATERIALS (also as HAZARDOUS SUBSTANCES) — any substance or material in quantity or form which in determination of the City's designated official or his or her authorized representative poses an unreasonable risk to the life, health or safety of any person or property or to the ecological balance of the environment and shall be deemed to include, but not limited to, substances which are explosive, flammable, radioactive, corrosive or such that may for any other reason be listed as a hazardous substance by the Pennsylvania Department of Health and Human Services or any Federal regulatory agency which oversees hazardous materials or hazardous substances.

PERSON — to include any individual, partnership, corporation, joint venture or other legal entity.

(Ord. 21-98, 12/23/1998, §1)

**§402. Abatement.**

The Fire Marshal or his/her designee is herewith authorized and directed to clean-up and/or abate or cause to be cleaned up and/or abated any spill or deposit or the effects of any spill or deposit of any hazardous materials or substances existent upon, or threatening any properties or facilities within the municipal boundaries of the City of Hermitage. Property shall include all public and private roads, streets, alleys, sidewalks and other lands and/or facilities that may be designated for the use of persons other than the owner or licensees thereof.

(Ord. 21-98, 12/23/1998, §2)

**§403. Indemnification.**

Any person or persons who cause, facilitate or participate in the deposit or spillage or any hazardous material upon any property or facility within the City of Hermitage, or the owner of any such property having actual knowledge of same, shall each be jointly and severably liable therefore, regardless of fault, negligence or degree of participation. Costs incurred by the City of Hermitage in the clean up or abatement as herein before

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provided, shall be at a rate or rates as shall be approved by the Board of Commissioners from time to time by resolution. Said costs shall be determined in such a manner as to reimburse the City all of its actual costs of labor, including fringe benefit costs and administrative costs, as well as actual costs of materials and/or supplies and any necessary equipment actually expended or used in the clean up or abatement proceedings.

(Ord. 21-98, 12/23/1998, §3)

### **§404. Cumulative Remedy.**

The remedies provided by this Part shall be deemed in addition to any other remedies available to the City or any citizen thereof and/or provided for by any other laws of the Commonwealth or United States of America, or the City of Hermitage, as may be applicable.

(Ord. 21-98, 12/23/1998, §4)

**PART 5**

**LOUD NOISES**

**§10-501. Definitions.**

CITY – the City of hermitage

EXCESSIVE NOISE – any sound or sounds which is unnecessary or unusually loud to be injurious or which unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

(Ord. 16-2005, 11/22/2005, §1)

**§10-502. Offenses Defined.**

1. It is unlawful for any person to make, continue, cause to be made or permit to be made within the City, any excessive noise.
2. Without limitation as to the types of noise producing acts which are in violation of this Section, noise produced by the following acts are declared to be excessive noise in violation of this Section:
  - A. Radios and Other Amplified Music. Use or operation of, or permitting the use or operation of any radio, CD player, television set, musical instrument, phonograph or other machine or device designed or intended to produce or reproduce sound to create excessive noise to disturb the peace, quiet and comfort of residential inhabitants with louder volume than is necessary for convenient hearing by the person or persons who are in the room, vehicle, or chamber in which such machine or device is operating and who are voluntary listeners thereto. The operating of any such machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the residential property line or anytime at a distance of 50 feet from a vehicle in which it is located, shall be prima facie evidence of a violation of this Section;
  - B. Loudspeakers and/or Amplifiers Upon Public Streets. Use or operation of, or permitting the use or operation of any radio, CD player, television set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device audible upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any thing or activity, or to any building or structure;
  - C. Construction or Repair Activities. The performance of any construction or repair work of any kind upon, or excavating for, any building or structure, where any such work entails the use of any air compressor, jackhammer,

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power-driven drill, riveting machine, excavator, hand hammer on steel or iron, or any other machine, tool, device or equipment which makes loud noise shall be prohibited on any Sunday or any other day between the hours of 8:00 p.m. and 7:00 a.m. The provisions of this subsection do not apply to any person, firm, partnership or corporation who performs any construction, repair or excavation pursuant to the express written permission of the City Manager, or his designee. Such person, firm, partnership or corporation must first apply for a permit for permission and pay a fee to the City of Hermitage pursuant to a resolution of the Hermitage Board of Commissioners. Upon receipt of an application in writing, stating the reasons for the request and the facts upon which such reasons are based, the City Manager, or his designee, may issue a permit if the activity is not otherwise prohibited by law or other regulation and he finds that:

- (1) The work proposed to be done is in the public interest; or
  - (2) Hardship, or injustice or unreasonable delay would result from the interruption hereof during the hours and days specified above; or
  - (3) The building or structure involved is devoted or intended to be devoted to a use immediately incidental to the public defense.
- D. Rubbish Collection. The performance of any rubbish collection utilizing any mechanical equipment in any residential zoning district or within 500 feet of any residential zoning district between the hours of 10:00 p.m. and 6:00 a.m. on any day.
- E. Landscape Maintenance Activities. Use of weedblowers, string trimmers, powered lawnmowers and/or other powered landscape maintenance equipment between the hours of 10:00 p.m. and 6:00 a.m. on any day.

(Ord. 16-2005, 11/22/2005, §2)

### **§10-503. Exceptions.**

This Part shall not apply to:

- A. The construction, repair, or excavation during prohibited hours as may be necessary for the preservation of life or property when such necessity arises during such hours as the offices of the City are closed or where such necessity requires immediate action prior to the time at which it would be possible to obtain required permits; provided, that the persons doing such construction, repair, or excavation obtain a permit therefore within one day after the office of the City Manager is first opened subsequent to the undertaking of such construction, repair, or excavation.

- B. The construction, repair, or excavation by a public utility which is subject to the jurisdiction of the Public Utilities Commission, or the Pennsylvania Department of Transportation, or the City of Hermitage, provided such work is necessary for the immediate preservation of the public health, safety or welfare, and where such necessity makes it necessary to construct, repair, or excavate during the prohibited hours.
- C. Vehicles, equipment or personnel of the City engaged in necessary public business.
- D. Any area of the City which is classified in the Hermitage Zoning Ordinance as a Light Industrial District or Heavy Industrial District and which is not less than 500 feet from any residential zoning district.

(Ord. 16-2005, 11/22/2005, §3)

**§10-504. Hearing.**

Any person aggrieved by the decision of the City Manager or his designee under §10-502(2) of this Part may request and shall then be granted a hearing before the Hermitage Board of Appeals; provided, he files with the City Manager within 10 days after the decision, a written notice requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than 30 days after the date on which the request was filed unless postponed for sufficient cause. After such hearing, the Hermitage Board of Appeals shall sustain, modify, or overrule the action of the City Manager, or his designee.

(Ord. 16-2005, 11/22/2005, §4)

**§10-505. Enforcement Procedures.**

Upon determination by a police officer that a violation under this Part has occurred or is occurring, the police officer shall first issue a written warning to the offender. Such warning notice shall set forth the specific acts in violation and notify the offender that continuing the violation shall be caused for the issuance of a citation. If, after receipt of the written warning and within a reasonable proximate amount of time, the same or substantially similar conduct causing the violation continues, then the offender shall be subject to the issuance of a citation and upon conviction be subject to the penalties under this Part.

(Ord. 16-2005, 11/22/2005, §5)

**§10-506. Penalties for Violation.**

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

(Ord. 16-2005, 11/22/2005, §6)

### **§10-507. Remedies Available.**

The violation of any of the provisions of this Part shall constitute a nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances. The remedies provided herein for the enforcement of this Part, or any remedy provided by law shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Hermitage Board of Commissioners.

(Ord. 16-2005, 11/22/2005, §7)

## PART 6

### GAS AND OIL WELL DRILLING OPERATIONS

#### **§601. Purpose.**

The purpose of this Part is to provide for permitting and regulation of gas and oil well drilling operations within the City of Hermitage as necessary to protect the public health, safety and welfare.

(Ord. 9-2001, 6/27/2001, §1)

#### **§602. City Permit Required.**

A gas and oil well drilling permit shall be required to be issued prior to the commencement of any aspect of any well drilling operation within the City of Hermitage. The following information and submissions are required as part of the permit application:

- A. Completion of the City of Hermitage gas and oil well drilling application as provided by the City, and payment of such permit fee as established by resolution of the Hermitage Board of Commissioners. Application for a permit must be made no less than 30 days prior to commencement of any aspect of the well drilling operation, including site preparation.
- B. Submission of a license and permit bond or other financial security as approved by the City Solicitor, in the amount of \$10,000 as principal in favor of the City of Hermitage as obligee, which bond shall ensure compliance with all parts and sections of this Part. The license and permit bond shall be issued by a bonding company licensed to do business in the Commonwealth of Pennsylvania, and the bond shall be made for a period of not less than one year. A new bond or an extension or renewal of the original shall be furnished at the expiration of any existing bond and shall remain in effect until the completion of the drilling operation and restoration of the site. If any bond or other financial security required herein lapses or becomes void for any reason, the permit issued under this Part shall immediately become inoperative and void until a new bond is provided or the existing bond is reinstated in full force. All bonds shall be subject to the approval of the City Solicitor as to form and sufficiency. The permit bond shall be released by the City upon final inspection and satisfaction of all applicable requirements of this Part.
- C. A copy of the approved Pennsylvania Department of Environmental Protection gas and oil well drilling permit, including the site plan.
- D. In the event that City maintained roads are to be used for access to the well site, a road repair and maintenance bond in the amount of \$12,500 per mile

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of road used must be posted to guarantee repair of all damage to City roads or rights-of-way.

- E. Where the access road to a proposed well site is connected to a City road, a driveway culvert permit must be approved by the City prior to construction of the access road.

(Ord. 9-2001, 6/27/2001, §1)

### **§603. Operational Requirements.**

#### 1. Public Safety.

- A. At every gas well site, there shall be available to the City of Hermitage Fire Department, during all drilling operations, a minimum of four 20 pound, nominal weight, portable fire extinguishers rated at 2A-20BC, visibly spaced within 50 feet of any operating equipment, flammable and combustible liquid storage, or hazardous areas designated by the fire department where the well site, surrounding conditions or additional fire hazards warrant same. The fire extinguishers shall be placed at the site prior to clearing and grubbing and shall remain until completion of all restoration and release of permit bond or other financial security. All fire extinguishers on site must be compliant to all applicable sections of NFPA Standard #10, Portable Fire Extinguishers.
- B. All well drilling, production, storage and product or material handling conducted at the well site must comply with the applicable National Fire Protection Association standards and/or the BOCA Fire Code in force under the ordinances of the City of Hermitage.
- C. Land clearing and grubbing shall be in accordance with all fire department policies and regulations.
- D. Once drilled, the well shall be properly and adequately diked to contain 150% of any liquids stored within the storage container. The area inside the dike must be free and clear of all debris, waste material and combustible vegetation. There shall be a clearance of 20 feet around the outside of the diked area that is maintained in such a manner to prohibit the ignition of any combustible vegetation. The owner/operator of the well must maintain at the well site an adequate hazardous materials spill kit of a size and type approved by the fire department. The hazardous materials spill kit shall be maintained at the site for the duration of the drilling operation and shall not be removed until approved by the fire department.
- E. No gas well shall be drilled in a location which does not have adequate free access to the well site from a public highway for fire or emergency vehicles.

- F. All storage tanks, cabinets, valves and wellheads shall be secured with padlocks, except when an authorized operator is present. All storage tanks shall have man way(s) and inspection port lids securely fastened and locked at all times. Where brine pits or any other aspects of the drilling site are determined to present a possible danger to the public, they shall be fenced or secured to the satisfaction of the fire department.
  - G. The well driller must immediately notify the fire department of any environmental damage including, but not limited to, spillage or breaching of any hazardous material product of any amount. The owner/operator of the well site must maintain a 24 hour emergency contact number in the event of any problem with the well site. The owner/operator must be able to provide maintenance service to the well site within two hours of notification of an emergency. Failure to provide an emergency response team to the well site within two hours of notification will result in charges to cover the cost of fire department emergency equipment standby as needed.
2. **Minimization of Noise.** The drilling company and leaseholder shall take all possible precautions and measures to minimize the level and duration of noise created by the drilling operation including, but not limited to, maximum muffling of generators, construction of earthen berms, etc. Failure to comply with this Section shall be grounds for revocation of the drilling permit and/or forfeiture of the license and permit bond.
  3. **Cleaning of Public Roads.** The drilling company and leaseholder shall be responsible to keep all public roads rights-of-way which are used to enter or exit the well site free from mud, dirt and debris. If any mud is carried on public roads from a well drilling site, the drilling company and leaseholder shall be required to clean the roads to the satisfaction of the City. Failure to comply with this Section shall be grounds for revocation of the drilling permit and/or forfeiture of the license and permit bond.
  4. **Restoration of Site Following Completion of Drilling.**
    - A. The drilling company and leaseholder shall restore the streets, sidewalks and other public places of the City damaged or destroyed as a result of drilling operations to their former conditions immediately upon completion of the drilling or immediately upon request from the City.
    - B. Storage tanks, compressor sites and well heads shall be secured by a locked chain link or similar fence, of a size, height and type approved by the fire department. In addition, where it is determined by the fire department that any portion of the well equipment is located where additional protection from vehicles is necessary, steel bollards or other approved protection shall be installed.
  5. **Abandonment of Gas and Oil Well.** The owner/operator of any well site shall notify the fire department no less than 90 days prior to abandonment or shutdown of

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any well site, in order to provide for City inspection to assure that the well site has been properly secured.

(Ord. 9-2001, 6/27/2001, §1)

### **§604. Penalty for Violation.**

Any person violating any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days. Provided, each violation of any provision of this Part, and each day the same continues, shall be deemed a separate offense.

(Ord. 9-2001, 6/27/2001, §1)

### **§605. Pennsylvania Laws.**

In the event that any legislation of the Commonwealth of Pennsylvania conflicts or contradicts the provisions of this Part, the legislation of the Commonwealth shall preempt the provisions of this Part and take precedence over the same.

(Ord. 9-2001, 6/27/2001, §1)