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**Part 1**

**Disorderly Conduct**

**§101. Disorderly Conduct Prohibited.**

Disorderly conduct is hereby prohibited within the Borough of Fountain Hill. A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he:

1. engages in fighting or in threatening, violent or tumultuous behavior;
2. makes unreasonable noise;
3. uses obscene language, or makes obscene gestures;
4. or creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Provided: as used in this section, the word “public” means affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment houses, places of business, or amusement, any neighborhood, or any premises which are open to the public.

(Ordinance 348, January 4, 1982)

**§102. Penalty for Disorderly Conduct.**

Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution, or, to undergo imprisonment for not more than one day for each \$10 of the unpaid fine and costs. (Ordinance 348, January 4, 1982)



## **Part 2**

### **Firearms and Fireworks**

#### **§201. General.**

This Part is to govern the sale, discharge and possession of fireworks, the discharging of firearms, and the violations and penalties thereto. (Ordinance 352, April 5, 1982, §1)

#### **§202. Sale, Discharge and Possession of Fireworks.**

It shall be unlawful for any person, firm or corporation to sell, discharge or set off, or have in his, her or their possession with intent to sell, discharge or set off, any fire-crackers or fireworks of any description whatsoever.

This prohibition shall not apply to a celebration of any festival or anniversary which shall be of public or semi-public character, held upon grounds owned or leased by the parties conducting such celebrations, providing the said party or parties make application to the Mayor at least 60 days in advance of the date of the proposed celebration, when, upon affirmative vote of Council, the Mayor shall be empowered to issue a permit without charge for such celebration, naming in such permit the place and hours during which the celebration may continue, the said period not to exceed beyond the hour of 12:00 midnight. The issuance of such permit by the Borough of Fountain Hill shall in no way be construed so as to render the Borough of Fountain Hill liable in any manner or degree for any injuries to persons or damages to property resulting from such celebration. (Ordinance 352, April 15, 1982, §2)

#### **§203. Discharge of Firearms.**

It shall be unlawful to discharge any firearms within the limits of the Borough of Fountain Hill. (Ordinance 352, April 15, 1982, §3)

#### **§204. Fines and Penalties.**

Any person violating any of the provisions of this Part shall, upon conviction before a district justice, be subject to a fine of not less than \$10 or more than \$300, or, to undergo imprisonment of not more than 90 days. (Ordinance 352, April 15, 1982, §4)

#### **§205. Severability.**

If any section, paragraph, subsection, clause or provision of this Part shall be declared to be invalid, such decision shall not affect the validity of this ordinance as a whole or any part thereof. (Ordinance 352, April 15, 1982, §5)



### Part 3

#### Loitering

##### **§301. Definitions.**

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

LOITERING — remaining idle essentially in one location; lingering, spending time idly; loafing or walking about aimlessly in one vicinity or neighborhood; or “hanging around.”

PUBLIC PLACE — any place to which the public has access, including any street or public sidewalk, the front of and the area immediately adjacent to any school, parking lot, store, restaurant, tavern or other place of business.

(Ordinance 563, August 7, 1995, §1; as amended by Ordinance 569, November 6, 1995, §301)

##### **§302. Certain Types of Loitering Prohibited.**

No person shall loiter in a public place in such a manner as to:

- A. Create or cause to be created a danger of a breach of the peace.
- B. Create or cause to be created any annoyance to any person or persons.
- C. Obstruct the free passage of pedestrians or vehicles.
- D. Obstruct, molest or interfere with any person lawfully in any public place as defined in §301 of this Part. This shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to, or in whose hearing, they are made.

(Ordinance 563, August 7, 1995, §2; as amended by Ordinance 569, November 6, 1996, §302)

##### **§303. Request to Leave.**

Whenever the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in §302 of this Part, any police officer may order that person to leave this place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this Section. (Ordinance 563, August 7, 1995, §3; as amended by Ordinance 569, November 6, 1996, §303)

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### **§304. Penalties.**

Any person who shall violate §§302 and 303 of this Part shall, upon conviction thereof, be sentenced to a fine of not more than \$300 and/or imprisonment for a term not to exceed 90 days. (Ordinance 563, August 7, 1995, §4; as amended by Ordinance 569, November 6, 1996, §304)

## Part 4

### Littering

#### **§401. Definitions.**

For the purpose of this Part, the following terms and/or words shall have the meanings respectively ascribed to them in this Part unless from the particular context it clearly appears that some other meaning is intended:

BOROUGH — the Borough of Fountain Hill, Pennsylvania.

LITTER — any waste paper, ashes, glass, grass, clippings, trimmings, advertising circulars, samples, fruit peelings and other food residue, cans, dirt, rubbish, waste garbage, refuse or any other trash, metal, wood, plastic or any other material.

PERSON — any individual, partnership, firm, association, corporation or any entity of any nature whatsoever.

(Ordinance 590, October 7, 1996, §401)

#### **§402. Littering Prohibited.**

It shall be unlawful for any person to throw, dump, place or leave, or cause or permit to be thrown, dumped, placed or left any litter on the highways, streets, parkways, roadways, throughways, alleys, thoroughfares, sidewalks, grounds of the public parks, swimming pools, playgrounds, recreation areas, public buildings, streams, water or banks of such streams or rivers, vacant lots, front yards, porches, parked motor vehicles, business and commercial establishments or the private property of others generally.

(Ordinance 590, October 7, 1996, §402)

#### **§403. Restrictions on Distribution of Advertising Matter.**

No person shall distribute or cause to be distributed any handbill, flyer, circular, card, booklet, placard or other advertising matter of any nature whatsoever, in or upon any street or public place, parking lot, front yard, malls or commercial locations or establishments, or on any stoop, in the vestibule or hall of any building, or in a letterbox therein or thereat; provided, further, that nothing herein contained shall be deemed to prohibit or otherwise regulate the delivery of any such matter by the U.S. postal authorities or prohibit the orderly distribution of sample copies of newspapers of general circulation regularly sold by the copy or by annual subscription. This Section is not intended to prevent the lawful distribution of anything other than commercial or business advertising matter. (Ordinance 590, October 7, 1996, §403)

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### **§404. Litter Storage.**

It shall be unlawful for any person to store, warehouse or retain litter in any open area except in adequate receptacles as determined by the Health Officer or Board of Health of the Borough, which receptacles shall control and conceal said litter. (Ordinance 590, October 7, 1996, §404)

### **§405. Temporary Signs Become Litter Time Limit.**

Political signs and special social events notices are deemed temporary and shall be deemed "litter" 10 days after the event or primary or general election as the case may be, whether on poles, posts, trees and the like, on the ground or otherwise outside of a building or structure; however, any such signs shall not be deemed "litter" for the period beginning 45 days before any such event, primary or general election to 10 days thereafter, respectively. (Ordinance 590, October 7, 1996, §405)

### **§406. Special Events Litter Disposal.**

Groups or organizations holding festivals, picnics, block parties and similar events, shall provide proper receptacles for litter and constantly police the premises and be certain the area is clear of all litter, placed in proper receptacles, at the end of each day thereof. (Ordinance 590, October 7, 1996, §406)

### **§407. Penalties.**

Any person who violates any provision of this Part or fails to comply with its terms shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300. (Ordinance 590, October 7, 1996, §407)

### **§408. Borough to Remove Litter and Assess Damages.**

In addition, the Borough is authorized to effectuate the removal of any such litter which has not been completely removed within 24 hours of written notice to any property owner and to assess damages for all costs and expenses incurred by the Borough to remove the litter. (Ordinance 590, October 7, 1996, §408)

## Part 5

### Smoking in Certain Public Areas Prohibited

#### §501. Policy.

It is the policy to respect the preference of both the nonsmoker and the smoker in the Borough buildings and facilities. When those preferences conflict, management and Borough employees shall endeavor to find a reasonable accommodation. When such accommodation is not possible, the preference of the nonsmoker shall prevail. (Ordinance 606, October 6, 1997, §1)

#### §502. Prohibited Areas.

Smoking is prohibited in accordance with Act 168 of 1988 of the Pennsylvania General Assembly, a copy of which is attached as Exhibit "A."<sup>1</sup> Smoking is not permitted in the following locations:

- A. Smoking is not permitted in areas containing personal computers (hard drive) or where records and supplies would be exposed to hazard from fire, ashes or smoke, including, but not limited to, vaults.
- B. Smoking is not permitted where combustible fumes can collect, such as in garage and storage areas, areas where chemicals are used and all other designated areas where an occupational safety or health hazard might exist.
- C. Smoking is not permitted where Borough premises are frequently visited by customers, such as public offices and open customer service areas and areas of common use frequented by residents to pay bills and taxes.
- D. Smoking is not permitted in Borough offices, conference rooms and meeting rooms and Council chambers.
- E. Smoking is not permitted at the Fountain Hill pool in any enclosed area, snack bar and pavilion.
- F. Smoking is not permitted at the Fountain Hill playground in any enclosed area, including the snack bar.
- G. Smoking is not permitted in the Fire Company located at 950 Cherokee Street.

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<sup>1</sup> Editor's Note: Exhibit "A" is on file at the Borough office.

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- H. Smoking is not permitted at the Public Works garage located at 848 North Clewell Street, in areas that chemicals are stored and in lunch rooms. The Borough may designate other locations where smoking is not permitted.
- I. Smoking is not permitted in the Police Department office area and lobby and other offices, except as noted in § 503.

(Ordinance 606, October 6, 1997, §2; as amended by Ordinance 613, March 2, 1998; and by Ordinance 722, April 3, 2006)

### **§503. Permitted Smoking Areas.**

1. Smoking shall be permitted at the Fountain Hill pool, in grass areas only.
2. Smoking shall be permitted at the Fountain Hill playground in open space and grass areas, including basketball court and band stand concrete deck and in areas where benches are located in and around the equipment area.
3. Smoking shall be permitted in the Police Department training room/lunch room, interview room and outside courtyard in the rear of the building.
4. Smoking shall be permitted in the Fountain Hill Public Works garage at 843 North Clewell Street in ventilated areas in the building and garage bays.
5. The Borough may designate other locations where smoking is permitted.

(Ordinance 606, October 6, 1997, §3; as amended by Ordinance 722, April 3, 2006)

### **§504. Policy Implementation and Employee Education.**

As an enhancement to the smoking policy, all employees shall be offered information about the dangers of smoking through payroll attachments. Employees shall be notified no less than 30 days in advance of the implementation of the smoking policy. A copy of the smoking policy shall be distributed to every full-time and part-time employee no less than 30 days in advance of the implementation of the policy. (Ordinance 606, October 6, 1997, §4)

### **§505. Complaint/Disciplinary Procedure.**

1. Enforcement of the policy shall be the responsibility of all supervisors and department heads.
2. Employees violating any of the provisions of this Part shall be subject to the following procedure in addition to the penalty Section of this Part:

- A. An offended party, other supervisor or department head shall notify the employee's supervisor.
  - B. First Offense. The immediate supervisor shall give a verbal warning to the employee.
  - C. Second Offense. The immediate supervisor shall notify the employee's department head, who shall give written warning to the employee.
  - D. Third Offense. The department head shall suspend the employee for one day without pay.
  - E. Subsequent Offenses. The department head shall determine any further disciplinary procedure, which may include dismissal. Such action must be approved by the appropriate committee.
3. Visitors, customers, consultants and the like will be asked to observe designated "no smoking" areas in Borough properties. Any person refusing to do so after one warning is deemed to have lost his/her authority to be on Borough's property and shall be in defiant trespass.
4. This disciplinary procedure shall not be applicable to police officers covered by the existing or any future collective bargaining agreement for Fountain Hill Police Officers. Any discipline of police officers for violating this policy shall be in strict accord with the procedures set forth in that agreement. [Ord. 613]

(Ordinance 606, October 6, 1997, §5; as amended by Ordinance 613, March 2, 1998)

**§506. Posting of Designated "No Smoking" Areas.**

Department heads shall be responsible for posting of designated "no smoking" areas in their departments in accordance with the provisions of this Part. Signs shall be clearly, sufficiently and conspicuously posted in every room, building and other places covered by this Part. (Ordinance 606, October 6, 1997, §6)

**§507. Penalty.**

Any person violating any of the provisions of this Part shall be fined not more than \$300 and/or be imprisoned for not more than 90 days. (Ordinance 606, October 6, 1997, §9)



## Part 6

### Noises

#### **§601. Noise Disturbance Prohibited.**

1. No person shall make, continue or cause to be made or continued any noise disturbance upon, near or adjacent to the streets or other public places in the Borough by any means including, but not limited to, automobile horns, engine whistles, bells, sirens, radios, amplifying system or the like.
2. "Noise disturbance" is defined as the presence of a sound or sounds of such intensity, duration, frequency or character which annoy, disturb, or cause or tend to cause adverse psychological and physiological effects on persons.
3. The making of more than one false car alarm within a 24 hour period is prohibited as a noise disturbance, unless such second or further alarm is caused by third persons engaged in criminal activity.
4. No person in the Borough shall operate heavy construction or excavation machinery, such as bulldozers, high lifts, pumps, power shovels, backhoes, jackhammers or other types of machinery in such a manner as to cause a noise disturbance as defined in subsection (2). The operation of such equipment on Mondays through Fridays prior to the hour of 7:00 a.m. and after the hour of 7:00 p.m., on Saturdays prior to the hour of 9:00 a.m. and after the hour of 4:00 p.m. and on Sundays prior to the hour of 10:00 a.m. and after the hour of 4:00 p.m. shall be presumed a noise disturbance; except for emergencies for public utility maintenance and repair and/or other emergencies and operations approved in advance by Borough officials. [Ord. 687]

(Ordinance 660, October 1, 2001, §601; as amended by Ordinance 687, February 4, 2004)

#### **§602. Sound Reproduction Devices.**

1. No person shall operate or allow to be operated a radio, stereo, boom box, tape and/or CD player or any other type of sound reproduction device in any area within the Borough at a sound level which is audible at a distance of greater than 40 feet from the location of any such sound reproduction device.
2. No person, while residing or occupying or present in a dwelling, building or other structure, or while driving, occupying or in control of any moving vehicle or parked vehicle, or otherwise, shall operate or allow to be operated a radio, stereo, boom box, tape and/or CD player or any other type of sound reproduction device in any area within the Borough at a sound level which is audible at a distance of

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greater than 40 feet from the location of such dwelling, building or other structure, or the location of such vehicle.

3. The provisions of this Section shall not apply to:
  - A. Police, Fire and Ambulance Vehicles, Devices or Buildings. The emission of sound, including radios, public address systems or other communications devices, from a police, fire and/or ambulance vehicle, device or building.
  - B. Municipal and Utility Services Vehicles, Devices or Buildings. The emission of sound from a municipal and/or utility services vehicle, device or building.
  - C. Places of Religious Worship. The sound of any bell or chime used in conjunction with places of religious worship.
  - D. Political and Labor Rallies, Athletic Events or Borough of Fountain Hill Licensed, Permitted or Authorized Events. The use of devices such as public address systems, amplifying systems, bull horns, musical instruments, tape messages or similar devices which are used at political or labor rallies, or athletic events or other Borough of Fountain Hill licensed, permitted or authorized events.

(Ordinance 660, October 1, 2001, §602)

### **§603. Penalty.**

Any person who violates any provision of this Part shall be subject to the following penalties:

- A. First Violation. A fine of \$50.
- B. Second Violation. A fine of \$100.
- C. Third and Each Subsequent Violation. A fine of not less than \$300.

(Ordinance 660, October 1, 2001, §603)