

Chapter 10

Health and Safety

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Part 1**Alarm Systems****A. General Provisions****§10-101. Title.**

This Part shall be known and cited as the "Borough of Clarks Green Emergency Police and Fire Alarm Ordinance."

(Ord. 4-1984, 10/15/1984)

§10-102. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Part:

Alarm - includes all automatic protection systems/devices which are designed so that, upon receipt of a stimulus from a sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or intrusion, it results in the activation of any audible warning device or prerecorded telephone message, the purpose of which is to alert and summon police, fire or other emergency personnel to respond to the location of the emergency. This definition also includes manually operated controls for holdup alert or medical emergency.

Alarm equipment supplier - any person, firm or corporation who sells, leases and/or installs automatic emergency alarm protection systems or devices.

Audible alarm - includes all sirens, horns, whistles and bells which are designed to attract the attention of neighbors and passersby and summon police or fire personnel and equipment to the scene of the alarm.

Borough - the Borough of Clarks Green, Lackawanna County, Pennsylvania.

Chief of Police - the Chief of Police of Clarks Green Borough; and, in the event that the Borough contracts with another municipality for police service, then the Chief of Police of said contracting municipality.

Citation - the nontraffic citations used to initiate summary prosecutions as prescribed by the Rules of Criminal Procedure, Commonwealth of Pennsylvania.

Communication center - the Lackawanna County Emergency Communications Center, 200 Adams Avenue, Scranton, Pennsylvania 18503, and its successor.

Emergency alarm protection system/device - see the definition of "alarm."

False alarm - any signal activated by an automatic protection device, any audible alarm or any other kind of direct or indirect signal given the Police or Fire Department of Clarks Green Borough to which police or firemen respond, which is not a result of a burglary, fire, robbery or other similar emergency.

Fee - the rate to be charged by the Borough for the issuance of alarm installation permits and inspections.

Fire Chief - the Fire Chief of the Fire Company providing fire protection to the Borough under contract to the Borough duly designated by Clarks Green Borough

Council. [*Ord. 3-2005*]

Firemen - all properly recorded members of the Fire Company providing fire protection to the Borough under contract to the Borough and all other Fire Departments who may assist said "firemen" in responding to the alarm.

Permit - the written application/permit to be required to be obtained from the Borough prior to the installation of any alarm, and shall be on a form prescribed by the Borough.

Police - all sworn members of the Police Department of the municipality providing police services and protection to the Borough and all other law enforcement agencies who may assist said "police" in responding to the alarm.

Service fee - the cost of personnel and equipment which respond to false alarms.

Warning notice - a written notice to person(s), property owners, companies or corporations in control or possession of that property where an alarm has been installed, and where false alarms originate, directing corrective repairs to be taken to eliminate the false alarms.

(*Ord. 4-1984, 10/15/1984; as amended by Ord. 3-2005, 10/10/2005*)

B. General Regulations**§10-111. Permit Required; Fee.**

1. No person, property owner or member of any firm or corporation shall install, connect or tie into any alarm without first, and before installation is started, submitting the required fees and securing a permit from the Borough.

2. No permit shall be issued without the payment of a permit fee in an amount as established from time to time by resolution of the Borough Council. [*Ord. 3-2005*]

3. No permit shall be transferable and it shall expire when ownership or occupancy of a residence, business or other building changes. The new owner or occupant shall apply for a new permit and submit therewith a permit fee of an amount as established from time to time by resolution of the Borough Council within 30 days of the expiration of a change in ownership or occupancy. [*Ord. 3-2005*]

(*Ord. 4-1984, 10/15/1984; as amended by Ord. 5-1992, 10/12/1992; and by Ord. 3-2005, 10/10/2005*)

§10-112. Inspection.

When the alarm installation is complete, it shall not be activated into service until it has been inspected and approved by the Chief of Police or Fire Chief, or both, depending upon the appropriate agency. The property owner or person in control of the property and the alarm installer must be available at the time of inspection.

(*Ord. 4-1984, 10/15/1984*)

§10-113. Recorded Messages.

Recorded messages must be intelligible and in a format approved by the Chief of the appropriate agency, Police and/or Fire Departments.

(*Ord. 4-1984, 10/15/1984*)

§10-114. Compliance With County Regulations Required.

In addition to the permits and inspections required by the Borough, all person(s), companies or corporations must comply with all regulations, permits or fees required by Lackawanna County for the installation of any alarm which, by telephone or other means, transmits a signal to the communication center requesting Borough police, fire or other emergency services to be dispatched to the scene of an emergency.

(*Ord. 4-1984, 10/15/1984*)

§10-115. Testing.

No person shall conduct any test or demonstration of an alarm without first obtaining permission from the Chief of the appropriate agency, Police and/or Fire Departments. Where the equipment is relayed through an intermediary, no such permission is necessary unless the alarm or signal is to be relayed to the Police or Fire Department.

(*Ord. 4-1984, 10/15/1984*)

§10-116. Audible Alarm Timing.

All audible alarms must be equipped with a timing mechanism that will disengage the audible alarm after a maximum period of 15 minutes. Audible alarms without such a timing mechanism shall be unlawful in the Borough and must be either modified to conform to the regulation set forth or must be disconnected within 90 days from the effective date of this Part.

(Ord. 4-1984, 10/15/1984)

§10-117. Prior Alarm Installations to Comply.

All persons, companies or corporations within the Borough who have alarm systems which were installed prior to the enactment of this Part shall, within 90 days of the effective date, provide the appropriate agency, Police and/or Fire Departments, with information as to the type of alarm, the name of the person(s), company or corporation who did the installation and the name of person(s), company or corporation providing maintenance service.

(Ord. 4-1984, 10/15/1984)

§10-118. Emergency Listing.

All person(s), companies or corporations having control over properties in the Borough where alarms are installed and in service shall provide to the appropriate agency, Police and/or Fire Departments, a list of person(s) who will be available to respond to the alarm location for the purpose of shutting off or resetting the alarm.

(Ord. 4-1984, 10/15/1984)

§10-119. Direct Alarm Connections to Police Department Prohibited.

No person(s), property owner, company or corporation shall install any alarm directly to any telephone trunk lines which have been installed to service the Borough Municipal Building and/or Police Department.

(Ord. 4-1984, 10/15/1984)

§10-120. Direct Alarm Connections to Fire Department; Fee.

1. No person(s), property owner, company or corporation shall install any alarm directly to the Clarks Green Municipal Building through the telephone or other means without first, and in addition to the permit required, obtaining a written agreement from the Fire Department to do so.

2. In addition to all penalties or fees described in Part 1C of this Chapter, all person(s), property owners, companies or corporations who enter into a written agreement with the Fire Department for direct alarm installation shall hereby be responsible for all installation, maintenance and removal costs of all equipment required, and in addition, shall submit to the Fire Department an annual fee in an amount as established from time to time by resolution of the Borough Council to be paid within the first 30 days of each calendar year. *[Ord. 3-2005]*

(Ord. 4-1984, 10/15/1984; as amended by Ord. 3-2005, 10/10/2005)

§10-121. Police and Emergency Service Annual Fee.

In addition to all penalties or fees described in Part 1C of this Chapter, any person(s), property owners, companies or corporations who install any direct-dial or other alarm system directly to the Lackawanna County Communications Center, which shall result in the Borough Police Department being dispatched to answer said alarm, shall pay an annual fee in an amount as established from time to time by the Borough Council to Clarks Green Borough for individual residences and for firms, companies and corporations, to be paid within the first 30 days of each calendar year.

(Ord. 4-1984, 10/15/1984; as amended by Ord. 3-2005, 10/10/2005)

C. Enforcement**§10-131. False Alarms.**

Misuse, false activation or accidental activation of an alarm to which the Police and/or Fire Departments respond shall be enforced as hereby directed:

A. The first recorded false alarm shall result in a written warning notice being issued to the person(s) in charge of the property where the false alarm originated, directing that proper repairs to the alarm system be completed within 5 days of the date of issuance of the warning notice, so as to eliminate additional false alarms within a 90-day period immediately following the issuance of the written warning notice.

B. Within 48 hours after completing repairs to the alarm system, the written notice as issued under the provisions of subsection .A of this Section shall be returned to the Borough Police Department with written notice that repairs are complete, the type of repairs made and the name of the person(s), firm or corporation completing the repairs. Failure to comply with the provisions of this subsection may result in the termination of emergency alarm response to said location until compliance is satisfied.

C. All false alarms received from a location where a written warning notice has been issued, and after the 5-day period allowed for repairs expires, and up to 90 days from the original date of issue of said written warning notice has expired, shall result in a citation being issued by the Police Department to the person(s) in charge of the property where the false alarm originates and, upon conviction, said person shall be sentenced to a fine of not less than \$25 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 30 days. [*Ord. 3-2005*]

D. When repairs have been made in compliance with the written warning notice, and no false alarms are received for the 90-day period following the date of issuance of said written warning notice, and after the 90-day period has expired, a false alarm is received, enforcement shall again be initiated under subsection .A of this Section.

(*Ord. 4-1984, 10/15/1984; as amended by Ord. 3-2005, 10/10/2005*)

§10-132. Service fees.

If, after the issuance of written warning notice as described in §10-131.A and .B, false alarms continue to originate from that location recorded in said written warning notice, the Borough may submit a bill to the person(s), property owner, companies or corporations in charge of the property for service fees incurred by the Borough for Police and/or Fire Department personnel and equipment responding to the false alarm. Service fees shall include the reasonable costs of personnel and equipment responding as incurred by the Borough for providing such emergency service.

(*Ord. 4-1984, 10/15/1984*)

§10-133. Violations and Penalties.

Violations of the provisions set forth in Part 1B, "General Regulations," may result

in a citation being issued to the person(s), property owner, companies or corporations in charge of the property, or alarm equipment suppliers or their employees, and upon conviction thereof, 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 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 4-1984*, 10/15/1984; as amended by *Ord. 3-1989*, 10/9/1989, §41-16; and by *Ord. 5-1992*, 10/12/1992; and by *Ord. 3-2005*, 10/10/2005)

§10-134. Enforcement Agency.

In order to maintain uniformity of enforcement and centralized record keeping, the Borough Police Department shall be the primary enforcement agency for the regulations set forth in this Part. Other Police and Fire Departments and all other emergency services responding to false alarms as defined in this Part within the Borough shall make all complaints known to the Borough Police Department, who will initiate enforcement provisions as outlined under §10-131.A, .B and .C.

(*Ord. 4-1984*, 10/15/1984)

Part 2**Dangerous Buildings****§10-201. Investigation; Report.**

Whenever it shall be reported to the building inspector that any structure, completed or in process of construction, or any portion thereof, is in dangerous condition, the building inspector shall immediately cause an investigation or examination to be made of the structure. If any investigation or examination indicates such structure to be dangerous in any respect, the building inspector shall report in writing to the Borough Council, specifying the exact condition of such structure, setting forth in such report whether and in what respect he considers such structure to be dangerous, and, if so, whether such structure is capable of being properly repaired or whether it should be removed as a dangerous structure.

(*Ord. 8-1978, 9/11/1978*)

§10-202. Notice to Repair or Remove; Service of Notice.

1. If any structure is reported by the building inspector, as provided in the §10-201 of this Part, to be in dangerous condition, the Borough Council shall forthwith cause written notice to be served upon the owner of such structure. Such notice shall require the owner of such structure to commence the repair or removal of such building within 20 days of such notice and to complete such repair or removal within 35 days thereof; provided, that in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure instead of making the repairs thereto, within said time limit.

2. The notice required by subsection .1 of this Section shall be served personally upon the owner of a structure, if such owner resides in the Borough, or upon the agent of such owner, if such agent has a residence or place of business within the Borough. If neither the owner nor the agent thereof can be served within the Borough, as hereby provided, such notice shall be sent to the owner of such structure by registered mail, at the last known address thereof.

(*Ord. 8-1978, 9/11/1978, §45-2*)

§10-203. Violations and Penalties.

If the owner of any dangerous structure, to whom or which a notice to repair or remove such structure shall be sent under the provisions of this Part, fails to commence or to complete such repair or removal within the time limit prescribed by such notice, upon conviction thereof, 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 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 8-1978, 9/11/1978; as amended by Ord. 3-1989, 10/9/1989, §45-3; and by Ord. 3-2005, 10/10/2005*)

§10-204. Repair or Removal by Borough.

If the owner of any dangerous structure, to whom or which a notice to repair or to remove such structure shall be sent under the provisions of this Part, fails to commence or to complete such repair or removal within the time limit prescribed by such notice, the Borough Council shall be empowered to cause such work or repair or removal to be commenced and/or completed by the Borough, and the cost and expense thereof, with a penalty of 10% shall be collected from the owner of such structure, in the manner provided by law, provided that the recovery of such cost and expense, together with the penalty, may be in addition to the penalty imposed as provided in the §10-203 of this Part.

(Ord. 8-1978, 9/11/1978)

Part 3**Abandoned and Junked Vehicles****§10-301. Title.**

This Part shall be known and may be cited as "Borough of Clarks Green Abandoned and Junked Automobile Ordinance."

(Ord. 2-1982, 4/12/1982)

§10-302. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

Association - any partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons.

Calendar day - a period of 24 hours measured from midnight to midnight of any calendar day.

Corporation - a corporation or joint-stock association, organized under the laws of this commonwealth, the United States or any other state, territory or foreign country or dependency.

Junked or abandoned automobile - any automobile outside of a fully enclosed building not in full and complete working order and without current registration plates or any automobile stored for resale as junk metal or any automobile outside a fully enclosed building stored for selling parts therefrom.

Person - every natural person, association or corporation. Whenever used in any clause prescribing or imposing a penalty, or both, the term "person," as applied to an association, shall mean the partners and, as applied to a corporation, shall mean the officers thereof.

(Ord. 2-1982, 4/12/1982)

§10-303. Storage on Private or Public Property.

It shall be unlawful for any person to store any abandoned or junked automobile on private or public property within the geographical, boundaries of the Borough of Clarks Green, Lackawanna County, Pennsylvania, for any portion of a calendar day. The storage of any automobile as hereinabove prohibited in this Section for more than 1 calendar day shall constitute a separate and distinct unlawful act for any portion of each calendar day.

(Ord. 2-1982, 4/12/1982)

§10-304. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, 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 30 days. Each day that a violation of this Part continues shall constitute a

separate offense.

(*Ord. 2-1982*, 4/12/1982; as amended by *Ord. 3-1989*, 10/9/1989, §112-4; and by *Ord. 3-2005*, 10/10/2005)

§10-305. Prosecution.

All prosecutions shall be brought in the name of Borough of Clarks Green before a district justice having jurisdiction.

(*Ord. 2-1982*, 4/12/1982; as amended by *Ord. 3-1989*, 10/9/1989, §112-5)

Part 4**Unkempt and Unsafe Properties****§10-401. Short Title.**

This Part shall be known and maybe cited as “Clarks Green Unkempt and Unsafe Properties Ordinance.”

(*Ord. 2-2010, 2/8/2010, §1*)

§10-402. Definitions.

As used in this Part, the following terms shall have the meanings indicated:

Code Enforcement Officer - the official appointed from time to time by the Borough Council and charged with the enforcement of the Code. The Code Enforcement Officer shall have the authority necessary to enforce the provisions of the Code including institution of summary citation proceedings.

Exterior property areas - the open space on the premises and on adjoining property under the control of the owner of the premises.

Garbage - animal or vegetable waste resulting from the handling, preparation and consumption of food or food products.

Infestation - the presence within or contiguous to a structure or improvement of insects, rats, vermin or other pests.

Owner - any person or agent having a legal or equitable interest in the Premises; or recorded in the official records of Lackawanna County as holding title to the premises or otherwise having control of the premises including a tenant or lessee of the premises.

Personal property - temporary or movable property as distinguished from real property.

Premises - a lot, plot or parcel of land including the buildings, structures and other improvements thereon.

Public nuisance - includes any of the following:

(1) The physical condition or use of any premises as a public nuisance at common law.

(2) The physical condition, use or occupancy of any premises, structure or appurtenances considered an attractive nuisance to children including, but not limited to, abandoned wells, shafts, basements, excavations or abandoned structures.

(3) Any premises with unsanitary sewerage disposal or plumbing facilities.

(4) Any structure designated by the Code Enforcement Officer or Borough Engineer to be unsafe for human habitation or use.

(5) Any premises or structure which is clearly capable of being a fire hazard or is clearly unsafe or unsecure as to endanger persons or property.

(6) Any structure from which the plumbing or heating facilities have been removed or from which required utilities have been disconnected and precautions against trespassers have not been taken.

(7) Any premises or structure which is unsanitary or which is littered with garbage or rubbish or which has been determined by the Borough Board of Health to be a threat to human health.

(8) Any stagnant water pool which is detrimental to the health, safety and welfare of the public or creates a public health risk or hazard such as the West Nile virus.

(9) Any structure that is in a state of dilapidation, deterioration or decay, open to the elements, abandoned in danger of collapse which poses a danger to person or property on or near the premises on which such structure is located.

Rubbish - combustible and non-combustible waste material excluding garbage, including the residue from burning of wood, coal or other combustible material, paper, rags, cartons, boxes, wood, rubber, tree branches, yard trimmings, tin cans, plastic and metal containers, metals, glass and other similar materials.

Stagnant water pool - collection of stagnant water in which mosquitoes, flies or other insects may multiply including, but not limited to, open containers, lagoons, ditches, roof gutters, wheelbarrows, bird baths, ornamental pools, swimming pools and swimming pool covers which remain undisbursed 7 days from the last recorded rainfall, except for normal water retention areas.

Structure - that which is built or constructed including, but not limited to, buildings, for any use whatsoever, fences, signs, fire escapes, railings, porches, decks, steps or anything erected and framed of component parts which is fastened anchored or rests on a permanent foundation or on the ground.

(Ord. 2-2010, 2/8/2010, §1)

§10-403. Standards for Weeds, Grass, Brush and Other Vegetation.

1. No owner of premises in the Borough of Clarks Green shall permit or allow to grow in height in excess of 8 inches any weeds, brush, grass, or other vegetation which is not customarily edible or for ornamental purposes upon any Premises within the Borough.

2. All weeds, brush, grass or other vegetation which is not customarily edible or for ornamental purposes in excess of 8 inches in height shall be cut or removed by the owner of the premises.

3. It shall be unlawful for any owner not to cut or otherwise remove weeds, brush, grass or other vegetation which is not customarily edible or for ornamental purposes which exceed 8 inches in height.

(Ord. 2-2010, 2/8/2010, §1)

§10-404. Maintaining Exterior Property Areas.

1. All exterior property areas shall be maintained in a clean, safe and sanitary condition, free from any accumulation of garbage or rubbish.

2. All premises shall be graded and maintained so as to prevent the accumulation

of stagnant water thereon or within any structure thereon.

3. Unless otherwise permitted herein, the storage of any personal property for a period of more than 10 days on exterior property areas is strictly prohibited.

All storage of personal property for a period of more than 10 days shall be within a permanent, enclosed storage facility which complies with the provisions of Chapter 27 of the Code. This provision shall not apply to grills, outdoor furniture and furnishings and other personal property normally and customarily used by residents of the premises, building materials to be incorporated into a structure on the premises or motor vehicles with current registration and inspection.

(*Ord. 2-2010, 2/8/2010, §1*)

§10-405. Maintaining Premises and Structures.

All premises, structures, and exterior property areas shall be maintained by the owners therefore in accordance with the provisions of this Part and in a manner so as not to constitute a public nuisance as defined herein.

(*Ord. 2-2010, 2/8/2010, §1*)

§10-406. Duties and Powers of the Code Enforcement Officer.

1. The Code Enforcement Officer shall enforce all provisions of this Part.

2. The Code Enforcement Officer shall issue all necessary warnings, notices and orders to abate conditions in violation of this Part and to insure compliance with this Part's requirements for the health, safety and general welfare of the public.

3. The Code Enforcement Officer is authorized to enter any premises, structure or exterior property area at reasonable times for the purpose of making inspections and enforcing the provisions of this Part.

4. If any owner, occupant or other person in charge of a premise, structure or exterior property area subject to the provisions of this Part refuses, impedes, interferes with, restricts or obstructs entry or access to a premise, structure or exterior property area where an inspection authorized by this Part is sought, the Code Enforcement Officer shall be permitted to seek an order that such person in charge shall cease and desist with such interference.

5. Should the Code Enforcement Officer determine that there exists a violation of this Part or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner in the manner described below.

6. The notice provided by the Code Enforcement Officer shall be in writing, include a description or address of the premises, structure or exterior property area, the violation or reason for issuance of the notice, and provide for a reasonable period of time for remedy of the violation.

(*Ord. 2-2010, 2/8/2010, §1*)

§10-407. Work by Borough; Costs Filed as Lien.

Upon failure, refusal, or neglect of any owner to comply after written notice pursuant to §10-406 hereof, with any and all applicable provisions of this Part, the work required for compliance may be performed by Borough employees or contracted out as authorized by the Borough Council after input from the Code Enforcement Officer to

effect compliance with the provisions of this Part, including the abatement of any public nuisance, and the entry in or on to the premises, structure, or exterior property area. After compliance work is completed by the Borough or its contractors, statements for the work performed shall be prepared by the Borough for all costs and expenses and shall include an administrative charge of 10%. Such statement shall be mailed to the owner of the premises, structure or exterior property area and if the same remains unpaid for a period of 20 days from the date of mailing, then the amount of such statement may be filed as a municipal lien against the premises, structure or exterior property area and such lien shall continue in effect until the full amount thereof, together with interest at the rate of 10% per annum, is paid in full. In addition to the municipal lien, the Borough may also pursue an action in assumpsit to collect this amount due.

(Ord. 2-2010, 2/8/2010, §1)

§10-408. Penalty.

Any person who shall violate the provisions of this Part, may be sentenced to pay a fine of not less than \$300 plus costs and in default of payment of said fine and costs to a term of imprisonment if not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate violation.

(Ord. 2-2010, 2/8/2010, §1)

Part 5**Outdoor Solid Fuel Burning Furnaces or Appliances**

[See also, Part 6, "Air Pollution"]

§10-501. Purpose and Scope.

1. Residences, commercial and industrial establishments situated within the Borough of Clarks Green are entitled to clean air and environmental circumstances free of unreasonable dust, obnoxious odors, noxious fumes and smells, as well as an environment free of stored debris and storage of combustible fuels in adjacent or exposed exterior areas within densely populated areas.

2. Research indicates that outdoor solid fuel burning appliances cause emission problems that cross property lines because the smoke stays close to the ground and can easily reach humans working or playing outdoors or penetrate neighboring buildings. The low-lying smoke can worsen cardiovascular problems such as angina, irritate eyes and lungs, trigger headaches, and worsen respiratory diseases such as asthma, emphysema and bronchitis.

(Ord. 4-2008, 11/10/2008, §1)

§10-502. Definitions.

Chimney - any vertical structure enclosing a flue or flues that carry off smoke or exhaust from an outdoor solid fuel burning appliance.

Outdoor solid fuel burning appliance - any equipment, device or apparatus which is installed, affixed or situated outdoors, and not situated within a building intended for habitation by humans or domestic animals, which is used for the primary purpose of combustion of fuel to produce heat for energy as a heating system, or component thereof, which provides heat or hot water to the principal structure, to a structure used for human or animal inhabitation, or to any accessory structures or uses including, but not limited to, greenhouses, conservatories and swimming pools.

(Ord. 4-2008, 11/10/2008, §2)

§10-503. Regulations for Outdoor Solid Fuel Burning Appliances.

1. Any outdoor solid fuel burning appliance must have or meet the following:

A. A safe flue or chimney which has a minimum termination height of 20 feet above the natural ground level upon which the appliance is located.

B. A "scrubber" or filter type system attached to the appliance.

C. A fan or blower attached to the appliance to increase the efficiency of the appliance.

D. Be located not less than 75 feet from any property line.

2. All outdoor solid fuel burning appliances are required to meet emission standards currently required by the United States Environmental Protection Agency (EPA) and the Pennsylvania Department of Environmental Protection (PaDEP). Emission standards currently required by the EPA and PaDEP are hereby adopted by reference together with any amendments or modifications made to them in the future.

3. All outdoor solid fuel burning appliances shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

4. No homemade outdoor solid fuel burning appliances will be allowed for any structure or any accessory use.

5. Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in outdoor solid fuel burning appliances. The burning in outdoor solid fuel burning appliances of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, plastic, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.

6. A permit must be acquired from the Borough of Clarks Green prior to the installation of any outdoor solid fuel burning appliance. The permit fee shall be \$75 and may be changed at any time, by modification of the Borough's fee resolution. Before a permit can be issued hereunder, a review and inspection of the proposed installation shall be required. In addition, a site plan is required showing the location of the proposed outdoor solid fuel burning appliance on the property, location and height of all existing structures on the property, and the distances from the outdoor solid fuel burning appliance to the existing structures on the property. The manufacturer's specifications and instructions shall also be furnished to the Borough before a permit can be issued. A permit shall be issued if all requirements contained in this Part are strictly complied with. Any violation of the aforementioned conditions shall be deemed a violation of this Part. Any violation of this Part or the issued permit shall void the permit.

7. Ashes or waste cannot be accumulated on the property. They may be dispersed on the property as long as no accumulation can be seen. Any accumulation of ashes or waste must be disposed of weekly with the trash collection, in accordance with Borough regulations.

8. All outdoor solid fuel burning appliances may only be utilized for the sole purpose of furnishing heat and/or hot water to a residence during the period of October 1 through April 30; and, only if the outdoor solid fuel burning appliance meets the requirements of this Part.

9. If an outdoor solid fuel burning appliance is physically deteriorated or decayed, the outdoor solid fuel burning appliance must be removed and/or replaced.

10. All storage of materials being burned in the outdoor solid fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of rodents.

(*Ord. 4-2008, 11/10/2008, §3*)

§10-504. Enforcement.

It shall be the duty of the Borough Code Enforcement Officer and/or police department serving the Borough to enforce the terms of this Part and secure compliance

with the requirements thereof.

(Ord. 4-2008, 11/10/2008, §4)

§10-505. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, shall upon conviction thereof be sentenced to pay a fine of not more than \$500 and in default of payment of said fine, to imprisonment for a term not to exceed 90 days. Every day that a violation of this Part continues, shall constitute a separate offense.

(Ord. 4-2008, 11/10/2008, §5)

Part 6**Air Pollution****§10-601. Title.**

This Part shall be known and may be cited as the “Clarks Green Borough Air Pollution Ordinance.”

(Ord. 4-2010, 7/12/2010, §1)

§10-602. Policy.

Pollution of the air by open burning and otherwise is detrimental to the health, comfort, living conditions, welfare and safety of the citizens of the Borough, it is hereby declared to be the policy of the Borough to safeguard its citizens from such air pollution.

(Ord. 4-2010, 7/12/2010, §1)

§10-603. Definitions.

The following words, terms and phrases when used in this Part, unless the context clearly indicates otherwise shall have the following meanings respectively ascribed to them:

Chimenea - (also spelled chiminea) is a freestanding front-loading fireplace or oven with a bulbous body and usually a vertical smoke vent or chimney.

Clean wood - natural seasoned wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products and does not include green or fresh lumber, tree limbs or logs.

Garbage - all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

Odor - property of a substance which affects the sense of smell.

Open burning - kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney. This includes burning in a burn barrel.

Patio wood-burning unit - chimenea, patio warmer, firepot, firepit or other portable wood burning devices used for outdoor recreation and/or heating. Such devices are usually constructed of terra cotta, cast iron, steel, bronze, copper, glass and/or tile. Not included in this definition is a burn barrel or a “campfire” constructed of stones lining a hole or hollow in the ground.

Person - any individual, partnership association, syndicate, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law as the subject of rights and duties.

Refuse - any vegetative waste material including frees, tree limbs, logs, brush, stumps, leaves, grass clippings and other vegetative matter.

Rubbish - solids or liquids that are highly flammable or explosive and such materials such as plastics, rags, old clothes, leather, rubber, carpets, wood,

excelsior, paper, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials.

(Ord. 4-2010, 7/12/2010, §1)

§10-604. Enforcement and Penalties.

In addition to the police department then authorized to enforce laws in Clarks Green Borough, the Borough's duly appointed Code Enforcement Officer shall also have authority to enforce this Part.

A. The Borough's Code Enforcement Officer and the police department shall have the powers and duties to:

- (1) Enforce the provisions of this Part.
- (2) Receive and initiate complaints of violations of this Part.
- (3) Enter and inspect any property, premises or places for the purpose of investigating an actual or suspected source of air pollution or for the purpose of ascertaining the compliance or noncompliance with this Part.
- (4) Have access to and require information pertinent to any matter under investigation.
- (5) Send written notice of any violation of this Part to the person responsible for the violation.
- (6) File a written report of the violation of any regulation of this Part with the Clarks Green Borough Council.
- (7) Institute prosecution for violation of the regulations of this Part.

B. No person shall in any manner, hinder, delay, obstruct, resist, prevent or in any way interfere with the police department or Code Enforcement Officer in the performance of their duties under this Part or deny entrance to any premises where a violation of this Part is suspected.

C. Any person determined to be in violation of this Part shall pay costs which may include all expenses, direct or indirect, which the Borough has incurred in connection with the violation. Additionally, a fine of not less than \$100 or more than \$500 be ordered. In addition, the Borough shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Part. Each day that a violation of this Part exists shall constitute a separate violation of this Part.

(Ord. 4-2010, 7/12/2010, §1)

§10-605. Regulations.

Open burning is prohibited. Upon enactment of this Part no person shall ignite or feed an open fire for the destruction of refuse, garbage, or rubbish in any public or private place outside of any building within the Borough of Clarks Green.

A. *Exceptions.*

- (1) This Part does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(2) This Part does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(3) This Part does not apply to patio wood-burning or similar gas burning units provided such units are used as follows:

(a) The unit shall not be used to burn refuse, garbage or rubbish.

(b) The unit shall only burn charcoal, clean seasoned wood, natural gas or propane.

(c) The unit does not give off an odor so as to cause a nuisance to neighbors.

(4) This Part does not apply to ornamental vertical torches, sometimes referred to as "Tiki torches."

(5) This Part does not apply to any outdoor solid fuel burning appliance permitted in Part 5.

(Ord. 4-2010, 7/12/2010, §1)

