

CHAPTER 10

HEALTH AND SAFETY

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Part 1

Private Property Maintenance

§101. Short Title. This Part shall be known and cited as the "Borough of Everett Property Maintenance Ordinance." (Ord. 271, 6/8/1992)

§102. Preface. Recognizing the need within the Borough to establish certain minimum health and safety requirements for those buildings, structures, or properties which are used or associated with human occupancy, this part hereby establishes standards which the Borough Council considers to be fair and essential in meeting those minimum requirements. (Ord. 271, 6/8/1992)

§103. Authority. This Part, and the objectives leading to its enactment, are authorized by the Borough code. (Ord. 271, 6/8/1992)

§104. Definitions.

BUILDING - a roofed structure, enclosed by one (1) or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals.

COURT - an open and unoccupied space on a lot enclosed on at least three (3) sides by the walls of a building.

DANGEROUS BUILDING - all buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

- (1) Those whose interior walls or other vertical structure members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- (2) Those which, exclusive of the foundation, show damage or deterioration to 33% of the supporting member or members, or damage or deterioration to 50% of the non-supporting enclosing or outside walls or covering.
- (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety or the general health and welfare of the occupants or the public.
- (5) Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, safety or general welfare of the occupants or the public.
- (6) Those which have parts thereof which are so attached that they may fall and work injury to the health, safety or general welfare of the occupants or the public, or cause damage to public property.
- (7) Those which lack illumination, ventilation or sanitation facilities or, because of another condition, are unsafe, unsanitary or otherwise dangerous to the health, safety or general welfare of the occupants or the public.
- (8) Those which, because of their location, are unsanitary or otherwise dangerous to the health, safety or general welfare of the occupants or the public.
- (9) Those existing in violation of any provision of the codes or other ordinances of the Borough of Everett.

GARBAGE - putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION - the presence of insects, rodents, vermin and/or other pests.

LESSEE - owner for the purpose of this Part, when the lessor holds the lessee responsible for maintenance and repairs. (Amended Ord. 2004-07-01, 7/12/04)

LOT - plot, tract, premises or parcel of land, with or without improvements thereto.

OWNER - any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto or who retains the exclusive control of such a lot and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

PERSON - a natural person, firm, partnership, association, corporation or other legal entity. (Amended Ord. 2004-07-01, 7/12/04)

REFUSE - all putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

RUBBISH - combustible and noncombustible waste materials, including garbage, refuse, glass, metal, paper, wood, rags, cartons, boxes, rubber, leather, tin cans, bottles, mineral matter, crockery, lumber, wire, pipe, broken stone or cement, tree branches, plant growth, building materials, plumbing or electrical materials, furniture or scrap iron. (Amended Ord. 2004-07-01, 7/12/04)

UNOCCUPIED HAZARD - any building, or part thereof, or man-made structure, which remains unoccupied for a period of more than six (6) months, with either doors, windows, or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

YARD - any open space on the same lot with a building and, for the most part, unobstructed from the ground up.
(Ord. 271, 6/8/1992)

§105. Application. The provisions of this part shall supplement local laws, ordinances or regulations existing in the Borough of Everett or those of the Commonwealth of Pennsylvania. Where a provision of this Part is found to be in conflict with any provision of a local law, ordinance, code or regulation or those of the Commonwealth of Pennsylvania, the provisions which are more restrictive or which establish the higher standard shall prevail. (Ord. 271, 6/8/1992)

§106. Buildings and Structures.

1. No owner of any building or structure shall fail to take steps and perform such maintenance thereto, as may be required from time to time, to ensure the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties and to the general populace.

2. No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.

3. Owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard, shall, upon direction of the Borough Council, remove, or cause the removal of, the building and/or structure. (Ord. 271, 6/8/1992)

4. It shall be unlawful for any person, firm or corporation to allow a dangerous building and/or structure to exist.

5. Persons, firms or corporations owning dangerous buildings or structures shall, upon direction of the Borough of Everett, remove or cause the removal of the dangerous building and/or structure. (Amended Ord. 2004-07-01, 7/12/04)

§107. Yards, Open Lots, Parking Areas.

1. It shall be unlawful for any person, owner or lessee to permit:

A. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property.

B. The development or accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots.

C. Objectionable materials to accumulate and to be blown about the surrounding neighborhood.

D. Wells, cesspools, cisterns, sedimentation ponds, stormwater management impoundment ponds and/or ponds of a similar nature to remain open without adequate fencing or barricades to prevent access thereto by the general public.

E. The accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any portion thereof, to grow on their property which constitute a safety hazard to pedestrian and/or vehicular traffic. (Ord. 271, 6/8/1992)

F. Weeds, brush, grass to grow in height in excess of six (6) inches upon the land owned, occupied, or leased by any owner, occupant, or lessee to the person having an interest in land in the Borough of Everett. All such weeds, brush, or grass in excess of six (6) inches in height shall be cut and removed by the owner, occupant, lessee or other person having an interest in the land. It shall be unlawful for any person having an interest in the land as set forth above, not to cut or remove any weeds, brush, grass which exceeds six (6) inches in height. (Ord. 99-09-02, 9/13/99)

2. It shall be unlawful for any person, owner or lessee to permit rubbish to be stored, maintained or accumulated upon any yard, lot, parking area or other private grounds or in or upon any porch, carport, breezeway or unenclosed garage or areas open to the public view of such person, owner or lessee within the Borough of Everett. (Amended Ord. 2004-07-01, 7/12/04)

§108. Infestation, Prevention and Correction.

1. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.

2. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.

3. Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

(Ord. 271, 6/8/1992)

§109. Miscellaneous Provisions. No person shall permit:

A. Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge.

B. Roof gutters, drains, or any other systems designed and constructed to transport stormwater, to be discharged into any sanitary sewage system and/or any part thereof.

C. Any refrigerator, freezer and/or other similar storage chest to be discarded, abandoned or stored in any place or location which is accessible to the general public without first completely removing any and all locking devices and/or doors.

(Ord. 271. 6/8/1992)

§110. Responsibilities of Occupants. Any occupant of a premises shall be responsible for compliance with the provisions of this Part with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof. (Ord. 271, 6/8/1992)

§111. Responsibilities of Owners.

1. Owners of premises shall comply with the provisions of this part as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

2. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one (1) or more violations of this part, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of the Part.

(Ord. 271, 6/8/1992)

§112. Inspection.

1. The Borough Council may, or may cause, through an authorized representative of the Borough, entry onto premises for the purpose of inspection of any and all premises, properties, buildings, and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessary, prior arrangements just be made with the owner, or his

agent, to secure access thereof. (Ord. 271, 6/8/1992)

2. Whenever the Borough or its authorized representative find that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Part, such an order shall be effective immediately. Any person, firm, or corporation to whom such an order is directed shall comply therewith immediately but, upon petition to the Borough or its authorized representative, shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of the Part have been complied with, the Borough or its authorized representative shall continue such order in effect or modify or revoke it. The cost of abating such emergency shall be collected in the same manner as provided herein for other causes.

(Amended Ord. 2004-07-01, 7/12/04)

§113. Notice to Comply.

1. If noncompliance with the provisions of this Part constitute a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, the Police Department 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 or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within ten (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. 271, 6/8/1992)

§114. Authority to Remedy Noncompliance. If the owner does not comply with the notice to abate the conditions, within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The Borough of Everett, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing. (Ord. 271, 6/8/1992)

§115. Hearing.

1. Any person aggrieved by the decision of the Police Department may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within ten (10) days after notice of the Police Department'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 thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.

2. After such hearing, the Borough Council shall sustain, modify or overrule the action of the Police Department.

(Ord. 271, 6/8/1992)

§116. Penalties. Any person who shall violate any provision of this Part shall upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars (\$600.00) plus costs, and in default of payment to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 271, 6/8/1992)

§117. Owners Severally Responsible. If the premises are owned by more than one (1) owner, such owner shall severally be subject to prosecution for the violation of this Part. (Ord. 271, 6/8/1992)

§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 Borough Council. (Ord. 271, 6/8/1992)

Part 2

Establishment of Cemeteries

§201. Establishment of Cemeteries of Burial Grounds Prohibited.

It shall hereinafter be unlawful for any person or persons to lay out and use any ground or land, whether publicly or privately owned, within the Borough of Everett for burial or interment purposes, except upon that land now owned and set aside for burial or interment purposes by the Everett Cemetery Association. (Ord. 260, 3/11/85, §1)

§202. Burial of the Dead in the Borough of Everett Prohibited.

The burial of interment of deceased persons within the Borough of Everett shall hereinafter be prohibited, except upon that land now owned and set aside for burial or interment purposes by the Everett Cemetery Association. (Ord. 260, 3/11/85, §2)

§203. Penalties for Burial of the Dead Within the Borough. Any

person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. The body, if not removed, shall be exhumed and placed on those lands of the Everett Cemetery Association at the expense of the property owner. (Ord 260, 3/11/85, §3; as amended by Ord. 271, 6/8/1992)

Part 3

Maximum Sound Levels

§301. Purpose and Scope. It is the purpose and scope of this Part to provide regulations defining the maximum sound levels that vehicles, appliances and equipment shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of prohibited noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of the Borough. (Ord. 226, 4/7/69, §1; as revised by Ord. 271, 6/8/1992)

§302. Application. This Part shall apply:

1. To all types of vehicles, appliances and equipment, whether privately or publicly owned.

2. To sounds of any time duration.

3. To both the owner and operator of vehicles, appliances, equipment, devices, animals or any other object creating noises. (Ord. 226, 4/7/69, §2; as revised by Ord. 271, 6/8/1992)

§303. Exemptions. The following devices are exempt from the provisions of these regulations:

1. Aircraft (except model aircraft).

2. Police, fire, ambulance and other governmental emergency vehicles.

3. Back-up alarm devices on trucks and other equipment when installed and operated in accordance with society of Automotive Engineers recommended practice J 994, "Criteria For Back-Up Alarm Devices."

4. Governmental warning devices (i.e., civil defense or fire siren). (Ord. 226, 4/7/69, §3: as revised by Ord. 271, 6/8/1992)

§304. Definitions. All acoustical terminology shall be that contained in ANSI S1.1, "Acoustical Terminology."

ANSI - American National Standards Institute or its successors.

APPLIANCE - any device or combination of devices used or capable of being used as a means of accomplishing a desired end, such as a window air conditioning unit.

DAY - the twenty-four (24) hour period starting at local midnight.

DAY-TIME - 6:00 A.m. to 6:00 P.M.

DECIBEL (dB) - a unit of sound level which is a division of logarithmic scale used to express the ration of the sound intensity of the source to the intensity of an arbitrarily chosen reference intensity. The ratio is expressed on the decibel scale by multiplying its "base ten logarithm" by ten.

EQUIPMENT - any devices or combination of devices to accomplish a desired end, such as a chain saw, bulldozer, etc.

EXCESSIVE NOISE -excessive noise is that sound which is (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property. Measured noise levels in excess of limits established in these regulation or those specified in valid permits are declared to be excessive noise: (2) annoying to a person of ordinary sensibilities.

FLUCTUATING NOISE - a fluctuating noise is a noise whose sound level varies significantly with time.

IMPLUSIVE NOISE - impulsive noise is characterized by brief excursions of sound level. The duration of a single impulse is usually less than one (1) second.

INTERMITTENT NOISE - an intermittent noise is a noise whose sound level exceeds the ambient noise levels at least twice during the period of observation, which is one (1) minute or more. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of one (1) second or more.

NOISE - noise is any sound emitted by a person, animal, vehicle, appliance, equipment or other device and its environmental interaction.

ORDINANCE ENDORCEMENT OFFICER - any person appointed by the Borough with responsibility to enforce municipal ordinances; or, any sworn member of the Borough Police Department.

PERSON - either the owner of operator of vehicles, appliances, equipment or devices.

PERIOD OF OBSERVATION - the period of observation is the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer must be the observation time for a given expected accuracy of measurement.

S.A.E. - Society of Automotive Engineers.

SOUND LEVEL (Noise level) - airborne sound levels are expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified in the referenced standards. The specific weighting network used must be indicated by the proper notation. If the A-weighting is employed, the sound level is identified as dB(A).

SOUND LEVEL METER -a sound level meter is an instrument, or combination of instruments, which meets or exceeds the requirements for an ANSI Type S1A or Type S2A Sound Level Meter.

STEADY NOISE - a noise whose level remains essentially constant (i.e., fluctuations are less than five (5) dB) during the period of observation is a steady noise.

VEHICLE - any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to. the following: automobiles, trucks, buses, motorcycles, racers and like devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers. (Ord. 226, 4/7/69, §4; as revised by Ord. 271, 6/8/1992)

§305. Enforcement.

1. Abatement. Any emission of noise from any source in excess of the limitation established in or pursuant to this Part herein described shall be deemed and is hereby declared to be a public nuisance and may be abated, in addition to the administrative proceedings, fines and penalties herein provided. Such abatement may be made by any Police Officer or the Ordinance Enforcement Officer, or may be made by order of the Court of Common Pleas of Bedford County on complaint or petition filed on behalf of the Borough.

2. Nothing in this Part shall be construed to impair any cause of action, or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise in such place or manner, or at such levels, which may give rise to such cause of action.

3. The Noise Enforcement Officers of the Borough shall:

A. Be qualified by training and experience to perform the necessary measurements and procedures required to determine violations of the provisions of this Part.

B. File complaints with the District Justice to prosecute violations of this Part.

C. Investigate complaints of violations of this part and make inspections and observations of noise conditions.

D. Be authorized to issue a warning to persons considered in violation of these regulations, a warning which may allow an appropriate time not to exceed thirty (30) calendar days for correction to bring the offending vehicle(s), appliance(s), equipment or other device(s) within the provisions of these regulations before enforcement by prosecution.

(Ord. 226, 4/7/69, §5; as revised by Ord. 271, 6/8/1992)

§306. Administration. The Borough shall:

1. Have available in convenient for as in a unit the provisions of this Part and the recommended practices, rules, regulations and standards which have been adopted. A copy of the information sources shall be kept on file in the Borough offices.

2. Prepare and maintain records of all orders issued by the Noise Enforcement Officers and the Appeals Board.

3. By the Police Chief, issued all standards, permits, certificates, notices or other matters required under the provisions of this Part and notify all persons concerned of any decisions rendered and provide such persons with an opportunity to be heard as herein set

forth.

4. Establish an Advisory committee to investigate and make recommendations from time to time to the Borough Council with respect to needed additional or revisions of this Part.

(Ord. 226, 4/7/69, §6, as revised by Ord. 271, 6/8/1992)

§307. Appeals Board.

1. The Borough Council shall establish an Appeals Board consisting of five (5) members to hear and decide cases regarding interpretations of this Part and variances for undue hardship situations.

2. The membership of the Appeals Board shall contain at least one (1) member who is qualified by training and experience in the field of noise control and noise control regulations.

(Ord. 226, 4/7/69, §7; as revised by Ord. 271, 6/8/1992)

§308. Noise Limitations.

1. General. No person shall make, permit or cause to be made, any excessive noise of any kind by crying, calling or shouting, or be means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically-operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device unless said person has obtained a special permit from the Police Chief as provided in this Part.

2. Musical Instruments. No person shall use or perform on any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public open space of the Borough before 6:00 A.M. or after 10:00 P.M. of the day unless said person has obtained a special permit from the Police Chief.

3. Noise from Premises. No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood as measured at the property line in which such building or premise is situated, or be dangerous or detrimental to health.

4. Equipment Noise. It shall be unlawful for any person to use any air power equipment, pile driver, shovel, hammer, derrick, hoist, tractor, roller or other mechanical equipment operated by fuel, or electric power of air power in building or construction operations from 10:00 P.M. to 6:00 A.M. of the following day, except for emergency work on public improvements, work of public service utilities, and municipal services unless such equipment has been manufactured or modified for sound control and meets the provisions of this Part.

5. Noise in Handling Refuse Cans. No person shall make any unnecessary noise in the handling of ash, trash and garbage cans, either in loading or unloading, whether full or empty.

6. Noise in Vicinity of Hospitals, Schools and Churches. No person shall make any unnecessary noise in the vicinity of any hospital

or church, during hours of public worship, or school during school hours.

7. Unlawful to Keep Noisy Animals. no person shall keep, or permit to be kept, harbor, or otherwise maintain any animal which shall disturb the quiet of any public street or other public place, or of any neighborhood. Provided, however, that a noisy animal shall be defined as one (1) or more animals which makes noises habitually, so as to constitute annoyance to a person of ordinary sensibilities.

8. Noise by Peddlers. no peddler or other person who plies a trade or calling of any nature on the streets of the Borough shall use any horn, bell, or other sound instrument to make any noise tending to disturb the peace and quiet of the neighborhood, for the purpose of directing attention to his wares, trade or calling.

9. Use of Horns and Other Devices on Vehicles. No person operating any vehicle, other than police, fire, public service or ambulance operators, shall sound any horn, bell, gong, siren, or whistle, except for the ordinary horn installed on such vehicle by the manufacturer, or sound any type of horn except when reasonably necessary to prevent accidents or to otherwise comply with the law of motor vehicles.

10. The operational performance standards established by this Part shall not apply to any public performance being conducted in accordance with provisions of a special permit obtained from the Police Chief for the conduct thereof.

11. Vehicles. no person shall operate either a motor vehicle of a type subject to registration, except in police, fire equipment, ambulances or other government emergency vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the following noise limits for the category of minor vehicles based on a distance of fifty feet (50') from the center of the lane traveled on within the speed limit specified in this Section under test procedures established by §310 of this Part.

<u>Type of Vehicle</u>	Speed Limit of 35 MPH <u>or less</u>	Speed Limit of more than <u>35 MPH</u>
(1) Any motor vehicle with a manufacturer's gross combination weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle.	86 dB(A)	90 dB(A)
(2) Any other vehicle or any combination of vehicles towed by such motor vehicle.	76 dB(A)	82 dB(A)
(3) Any motorcycle or motor driven cycle.	78 dB(A)	82 dB(A)

A. This subsection applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this code

relating to motor vehicle mufflers for noise control.

B. No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle so that the noise level is increased above that emitted by the vehicle as originally manufactured. Procedures used to establish compliance with this subsection shall be those used to establish compliance of a new motor vehicle with the requirements of this Part.

C. No person shall sell or lease or offer for sale or lease a new or second-hand vehicle that produces a maximum noise exceeding the noise limit at a distance of fifty feet (50') from the centerline of travel as stated in this subsection. The manufacturer, distributor, importer or designated agent shall, if requested, certify in writing to the Borough that his vehicle sold or leased within the Borough comply with the provisions of this Part.

D. No person shall operate, or permit to be operated, a gasoline powered or diesel powered motor vehicle on the streets, roads, alleys, or highways within the Borough of Everett, Bedford County, Pennsylvania, utilizing, in said operation, an engine brake, permitting excessive noise to be created by said motor vehicle. This section shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of Everett Borough, other motor vehicles operators, pedestrians, and the operator and passengers of the motor vehicle involved in said emergency situation. (Ord. 99-09-01, 09/13/99)

12. Equipment.

A. No person shall operate any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of fifty feet (50'), under test procedures established by §310.

<u>Type of Equipment</u>	<u>Noise Limit</u>
(1) Construction and industrial machinery, such as crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, pavement breakers, compressors and pneumatic power equipment, but not including pile drivers.	86 dB(A)
(2) Agricultural tractors and equipment.	86 dB(A)
(3) Powered commercial equipment of 2HP or less intended for infrequent use in residential areas, such as chain saws, pavement breakers, log chippers, powered hand tools, etc.	84 dB(A)
(4) Powered equipment intended for repetitive use in residential areas, such as lawn mowers, small lawn and garden tools, riding tractors, snow removal equipment, etc.	70 dB(A)

B. No person shall sell or lease or offer for sale or lease new or second-hand equipment that produces a maximum noise exceeding the noise limit at a distance of fifty feet (50') as stated in subsection 12(A). The manufacturer, distributor, importer or designated agent

shall, if requested, certify in writing to the Borough that his equipment sold or leased within the Township complies with the provisions of this Part.

(Ord. 226, 4/7/69, §8; as revised by Ord. 271, 6/8/1992)

§309. Use of Property.

1. Any property use established in a zoning district as defined and designated under the provisions of the Borough Zoning Ordinance, if any, shall be such as to comply with the performance standards governing noise set forth hereinafter for the district in which such use shall be located.

2. Noise levels shall be measured in terms of the sound level in dBA using equipment which meets the requirements established by this Part.

3. In all commercial and industrial zoning districts, if any, at no point on the boundary of any residential zoning district shall the sound level of any individual operation or business, or the combined operations of any person, firm or corporation exceed the dBA levels shown below for the zoning district indicated from 10:00 P.M. to 6:00 A.M. of the following day, as measured under the test procedures established by §310(2) of this Part.

4. Maximum sound levels dB(A) along district boundaries as measured by conventional sound level meters on slow response:

	<u>Residential</u>	<u>Commercial/Industrial</u>
A-scale levels	55 dB(A)	62 dB(A)

5. In commercial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods, or products, or any property use shall conform with the performance standards stated above, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which any such activities take place, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

6. In residential zoning districts, any property use shall conform with the performance standards stated above for residential district boundaries, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which such use is established, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

7. The maximum sound levels established in this Section to be applied to the boundaries of a lot shall not apply to construction sites and emergency operations. Construction site noise levels shall be regulated by §308(11) of this Part.

(Ord. 226, 4/7/69, §9; as revised by Ord. 271, 6/8/1992)

§310 Test Procedures.

1. Test procedures to determine whether maximum noises emitted by new motor vehicles sold or offered for sale or lease meet the noise limits stated in §308(12) shall be in substantial conformity with standards and recommended practice established by the S.A.E.,

Incorporated, and the Pennsylvania Department of Environmental Resources as well as the United States Environmental Protection Agency and such other and further standards as may be propounded in the Code of Recommended Practices of the Borough.

2. Test procedures to determine whether maximum noises emitted by powered equipment or powered hand tools, sold or leased, or offered for sale or lease, meet the noise limits stated in §308(12) of this Part shall be in substantial conformity with Standards and Recommended Practices established by the S.A.E., Incorporated, and the Pennsylvania Department of Environmental Resources as well as the United States Environmental Protection Agency and such other and further standards as may be propounded in the Code of Recommended Practices of the Borough. (Ord. 226, 4/7/69, §10; as revised by Ord. 271, 6/8/1992)

§311. 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 six hundred dollars (\$600.00) and costs, and in default of payment of said fine and costs, shall be subject to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of the Part continues shall constitute a separate offense. (Ord. 226, 4/7/69, §11, as revised by Ord. 271, 6/8/1992)

Part 4

Storage of Motor Vehicle Nuisances

§401. 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.

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.

NUISANCE - any condition, structure, or improvement which shall constitute a danger or potential danger to the health, safety or welfare of the citizens of the Borough of Everett.

OWNER - the actual owner, agent or 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.

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

(Ord. 271, 6/8/1992)

§402. 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 Borough of Everett. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

1. Broken windshields, mirrors or other glass, with sharp edges.
2. One (1) or more flat or open tires or tubes which could permit vermin harborage.
3. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
4. Any body parts with sharp edges including holes resulting from rest.
5. Missing tires resulting in unsafe suspension of the motor vehicle.
6. upholstery which is torn or open which could permit animal and/or vermin harborage.
7. Broken head-lamps or tail-lamps with sharp edges.

8. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or lose in or on the vehicle.

9. Protruding sharp objects from the chassis.

10. Broken vehicle frame suspended from the ground in an unstable manner.

11. Leaking or damaged oil pan or gas tank which could cause fire or explosion.

12. Exposed battery containing acid.

13. Inoperable locking mechanism for doors or trunk.

14. Open or damaged floor boards including trunk and fire-wall.

15. Damaged bumpers pulled away from the perimeter of vehicle.

16. Broken grill with protruding edges.

17. Loose or damaged metal trim and clips.

18. Broken communication equipment antennae.

19. Suspended on unstable supports.

20. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough of Everett.
(Ord. 271, 6/8/1992)

§403. Storage of Motor Vehicle Nuisances Permitted.

1. Any person, owner or lessee who has one (1) or more motor vehicle nuisances as defined in §402 above, may store such vehicle(s) in the Borough of Everett only in strict compliance with the regulations provided herein. Such person, owner or lessee must, first, apply for a permit for either temporary or permanent storage and pay a fee to the Borough of Everett in an amount as established, from time to time, by resolution of Borough Council. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or outside within a opaque fence at least six (6) feet high which is locked at all times when unattended.

2. With the special approval of the Borough council, motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six (6) 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, 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 four hundred (400) square feet.

3. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of the Borough of

Everett Zoning Ordinance, if any. (Ord. 271, 6/8/1992)

§404. Inspection of Premises; Notice to Comply.

1. The Police Department 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 the 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 or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within ten (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. 271, 6/8/1992)

§405. Authority to Remedy Noncompliance. If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the nuisance within the time limit prescribed, the Borough of Everett shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The Borough of Everett, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing. (Ord. 271, 6/8/1992)

§406. Hearing.

1. Any person aggrieved by the decision of the Police Department may request and shall then be granted a hearing before the Borough Council, providing he files with the Borough Council within ten (10) days after notice of the Police Department'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 thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.

2. After such hearing, the Borough Council shall sustain, modify or overrule the action of the Police Department.

(Ord. 271, 6/8/1992)

§407. 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 six hundred dollars (\$600.00) plus costs, and in default of payment of said fine and costs, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 271, 6/8/1992)

§408. 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 Borough Council. (Ord. 271, 6/8/1992)

Part 5

Storage of Abandoned Equipment

§501. 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 Borough of Everett.

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.

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

(Ord. 271, 6/8/1992)

§502. 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 the doors remaining attached.
- F. Any other condition which shall threaten the health, safety or welfare of the citizens.

(Ord. 271, 6/8/1992)

§503. Storage Requirements.

1. Storage of such items as listed in §502 hereof on private property shall be permitted only in strict compliance with the regulations provided herein or with stricter regulations in other Borough of Everett ordinances, or in State or Federal laws. Each person, owner or lessee desiring to store items described in §502,

shall apply for a permit for either temporary or permanent storage and pay a fee as established, from time to time, by resolution of the Borough council. Such nuisance(s) must be stored within a garage of other enclosed building or outside, within an opaque fence at least six (6) feet high which is locked at all times when unattended.

2. With the special approval of the Borough Council nuisances may also be stored outside in an area enclosed by a chain link fence, at least six (6) 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 gas, oil or other potentially hazardous substances shall be removed. The total area of storage of such nuisances may not exceed six hundred (600) square feet.

3. Nothing herein shall be construed to permit the storage of appliance, machinery, equipment, or material nuisances contrary to the provisions of the Borough of Everett Zoning Ordinance, if any.
(Ord. 271, 6/8/1992)

§504 Inspection of Premises; Notice to Comply.

1. The Police Department 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 constitutes a nuisance, or if any condition, structure, or improvement pose a danger 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 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 ten (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. 271, 6/8/1992)

§505. 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 notice to abate the nuisance, within the time limit prescribed, the Borough of Everett shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The Borough of Everett, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing. (Ord. 271, 6/8/1992)

§506. Hearing.

1. Any person aggrieved by the decision of the Police Department may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within ten (10)

days after notice of the Police Department'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 thirty (30) days after the date on which the petition was filled unless postponed for sufficient cause.

2. After such hearing, the Borough council shall sustain, modify or overrule the action of the Police Department.
(Ord. 271, 6/8/1992)

§507 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 six hundred dollars (\$600.00) plus costs and, in default of payment of said fine and costs, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 271, 6/8/1992)

§508. 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 Borough Council.
(Ord. 271, 6/8/1992)