

**Code
of the
Borough of
Johnsonburg**

COUNTY OF ELK
COMMONWEALTH OF PENNSYLVANIA

SERIAL NO. **202**

GENERAL CODE
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PREFACE

The Borough of Johnsonburg has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Borough, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Borough. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Borough Council ordered the following codification of the Borough's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Borough Council of the Borough of Johnsonburg, including revisions or amendments to existing legislation deemed necessary by the Borough Council in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Borough legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Borough legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Table of Contents and Grouping of Legislation

The Table of Contents details the arrangement of material alphabetically by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, the use of article designations has preserved the identity of the individual enactments, and the titles of the articles are listed beneath the chapter title in order to facilitate location of the individual enactments.

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Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed in which the section number indicates the number of the chapter and the location of the section within that chapter. Thus, the first section of Chapter 30 would be § 30-1, while the sixth section of Chapter 57 would be § 57-6.

Scheme

The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number, if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted during the process of codification are cited in chapter histories with reference to "Ch. 1, General Provisions," where the legislation adopting the Code and providing for substantive revisions will appear after final enactment. Sections and subsections that are amended or revised during the process of codification are indicated in the text by means of Editor's Notes also referring to "Ch. 1, General Provisions." Following adoption of the Code, during the course of routine supplementation, these references will be updated to a History of the Code Adoption legislation.

PREFACE

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this publication is reserved for such legislation and for any other material that the community may wish to include.

Derivation Table

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1972 Code have been included in the 2014 Code, or the reason for exclusion.

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this publication will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

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Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Borough officials is gratefully acknowledged by the editor. The codification of the legislation of the Borough of Johnsonburg reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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PART I

ADMINISTRATIVE LEGISLATION

C E R T I F I C A T I O N
B O R O U G H O F J O H N S O N B U R G

Office of the Borough Secretary

I, **Mary E. Polaski**, Borough Secretary of the Borough of Johnsonburg, Pennsylvania, hereby certify that the chapters contained in this volume are based upon the original legislation of a general and permanent nature of the Borough Council of the Borough of Johnsonburg, and that said legislation, as revised and codified, renumbered as to sections and rearranged into chapters, constitutes the Code of the Borough of Johnsonburg, County of Elk, Commonwealth of Pennsylvania, as adopted by ordinance of the Borough Council on January 12, 2015.

Given under my hand and the Seal of the Borough of Johnsonburg, County of Elk, Commonwealth of Pennsylvania, this 12 day of January 2015, at the municipal offices of the Borough of Johnsonburg.

s/**Mary E. Polaski**


Borough Secretary

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- § 1-1. Approval, adoption and enactment of Code.**
- § 1-2. Effect of Code on previous provisions.**
- § 1-3. Inconsistent legislation repealed.**
- § 1-4. Legislation saved from repeal; matters not affected by repeal.**
- § 1-5. Inclusion of new legislation prior to adoption of Code.**
- § 1-6. Changes and revisions in previously adopted legislation; new provisions.**

- § 1-7. Interpretation of provisions.**
- § 1-8. Titles and headings; editor's notes.**
- § 1-9. Filing of copy of Code.**
- § 1-10. Amendments to Code.**
- § 1-11. Code books to be kept up-to-date.**
- § 1-12. Publication of notices.**
- § 1-13. Altering or tampering with Code; violations and penalties.**
- § 1-14. Severability.**
- § 1-15. Effective date.**

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Adoption of Code

[Adopted 1-12-2015 by Ord. No. 2015-01]

§ 1-1. Approval, adoption and enactment of Code.

Pursuant to Section 3301.5 of the Borough Code (8 Pa.C.S.A. § 3301.5), the codification of a complete body of legislation for the Borough of Johnsonburg, County of Elk, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 310, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Borough of Johnsonburg, which shall be known and is hereby designated as the "Code of the Borough of Johnsonburg," hereinafter referred to as the "Code."

§ 1-2. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Borough Council of the Borough of Johnsonburg, and it

is the intention of said Borough Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3. Inconsistent legislation repealed.

- A. Repeal of inconsistent ordinances. Except as provided in § 1-4, Legislation saved from repeal; matters not affected by repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed as of the effective date given in § 1-15; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Borough of Johnsonburg which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.
- B. Repeal of specific ordinances. The Borough Council of the Borough of Johnsonburg has determined that the following ordinances are no longer in effect and hereby specifically repeals the following former chapters of the 1972 Code:
 - (1) Chapter 27, Retirement Benefits.
 - (2) Chapter 37, Bicycles.
 - (3) Chapter 46, Fire Prevention.
 - (4) Chapter 58, Poles.
 - (5) Chapter 60, Sewer Connections.
 - (6) Chapter 61, Sewers.

§ 1-4. Legislation saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to October 13, 2014.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Borough prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.

- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Borough or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Borough.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Borough or any lawful contract, obligation or agreement.
- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Borough or other instruments or evidence of the Borough's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the Borough.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the Borough or setting the bond of any officer or employee.
- P. Any ordinance concerning changes and amendments to the Zoning Map.
- Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- R. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Borough.
- S. Any currently effective ordinance providing for intergovernmental cooperation or establishing an intermunicipal agreement.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted legislation; new provisions.

- A. Nonsubstantive changes. In compiling and preparing the ordinances and resolutions of the Borough for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances and resolutions. It is the intention of the Borough Council that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.
- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances and resolutions included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Borough Council, and it is the intent of the Borough Council that all such changes be adopted as part of the Code as if the legislation so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.¹
- C. Nomenclature. Throughout the Code, references to the following agencies or officials are updated as indicated:
 - (1) "Department of Environmental Resources" or "DER" to "Department of Environmental Protection" or "DEP."
 - (2) "Department of Community Affairs" or "DCA" to "Department of Community and Economic Development" or "DCED."
 - (3) "Justice of the Peace," "District Magistrate" and "District Justice" to "Magisterial District Judge."
 - (4) "Soil Conservation Service" or "SCS" to "Natural Resources Conservation Service" or "NRCS."
- D. Statutory references. Pursuant to recodification of the Borough Code in 2012 and 2014 (See now 8 Pa.C.S.A. § 101 et seq.), statutory citations referring to specific sections of the Borough Code have been updated accordingly throughout the Code.
- E. Additional amendments.

1. Editor's Note: In accordance with § 1-6B, the chapters, parts and sections that were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, repealed) 1-12-2015 by Ord. No. 2015-01." Schedule A, which contains a complete description of all changes, is on file in the Borough offices.

- (1) Chapter 55 is amended so that references to the Manager are made gender-neutral.
- (2) Chapter 292 is amended to reflect the following street name changes:

Prior Name	Updated Name
East Street	Legion Avenue
First Street	Hickory Street
Fourth Street	Hill Street
Railroad Avenue	Glen Avenue
Route 219	State Route 1009
Second Street	Church Street
Third Street	Ash Street

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Filing of copy of Code.

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Borough Secretary and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Borough Secretary, as provided by law, and such certified copy or copies shall remain on file in the office of the Borough Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Borough Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the Borough Secretary or someone authorized and directed by him or her to keep up-to-date the certified copy or copies of the book containing the Code required to be filed in the office of the Borough Secretary for the use of the public. All changes in said Code and all legislation adopted by the Borough Council subsequent to the effective date of this codification which the Borough Council shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new legislation are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-12. Publication of notices.

The Borough Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction and of the adoption of the Code in a newspaper of general circulation in the Borough. The enactment and application of this ordinance, coupled with the publication of the notice of introduction, the availability of a copy or copies of the Code for inspection by the public and the filing of an attested copy of this ordinance with the county, as required by law, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13. Altering or tampering with Code; violations and penalties.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof in any manner whatsoever which will cause the law of the Borough to be misrepresented thereby. Any person who violates or permits a violation of this section of this ordinance shall, upon being found liable therefor in a civil enforcement proceeding, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Borough in the enforcement of this chapter. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

§ 1-14. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the Borough Council that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

§ 1-15. Effective date.

All provisions of this ordinance and of the Code shall be in force and effect on and after February 1, 2015.

Chapter 10

AUTHORITY, MUNICIPAL

§ 10-1. Legislative declaration.

§ 10-3. Execution and filing of Articles of

§ 10-2. Articles of Incorporation.

Incorporation; notice.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 2-10-1953 by Ord. No. 443, approved 2-10-1953. Amendments noted where applicable.]

GENERAL REFERENCES

Borough Manager — See Ch. 55.

Recreation Board — See Ch. 87.

Planning Department and Planning Commission — See Ch. 71.

Shade Tree Commission — See Ch. 94.

§ 10-1. Legislative declaration.

It is the desire of the Borough Council of the Borough of Johnsonburg, in the County of Elk and Commonwealth of Pennsylvania, and said Borough Council hereby signifies its intention, to organize an Authority under the Municipality Authorities Act of May 2, 1945, P.L. 382, as amended.¹

§ 10-2. Articles of Incorporation.

In pursuance of said desire and intention, and in conformity with the terms and provisions of said Municipality Authorities Act and its amendments, the proposed Articles of Incorporation are hereby set forth in full, as follows:

ARTICLES OF INCORPORATION OF THE JOHNSONBURG MUNICIPAL AUTHORITY ELK COUNTY, PENNSYLVANIA

To the Secretary of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

In compliance with the requirement of the Municipality Authorities Act of 1945, approved the second day of May, 1945, P.L. 382, as amended, and pursuant to Ordinance adopted by the Municipal Authorities of the Borough of Johnsonburg, Elk County, Pennsylvania, that a Municipal Authority be established under the provisions of the aforementioned law, the Borough of Johnsonburg, Elk County, Pennsylvania, desiring that a Municipal Authority be established and that a Certificate of Incorporation be issued to said Authority, does hereby certify:

- (a) The name of the Authority shall be: Johnsonburg Municipal Authority, Elk County, Pennsylvania.

1. Editor's Note: See now 53 Pa.C.S.A. § 5601 et seq.

- (b) The Authority is formed under the Act of May 2nd, 1945, P.L. 382, as amended. ²
- (c) No other Authority has been organized under the provisions of this Act, or the Act approved the 28th day of June, 1935, P.L. 463, and is in existence within said Borough.
- (d) The name of the incorporating municipality is the Borough of Johnsonburg, Elk County, Pennsylvania.
- (e) The term of existence of the Authority is increased to a date 50 years from the date of approval of these Articles of Amendment. **[Added 11-13-1973 by Ord. No. 601, approved 11-13-1973]**
- (f) The number of members of the Board of the Authority shall be increased from five to seven effective as of the first day of January 1974, and the initial terms of office for said additional members shall be for three years and four years respectively from said date. Following expiration of the initial terms, their successors shall serve five-year terms as provided by law. **[Added 11-13-1973 by Ord. No. 601, approved 11-13-1973]**

The names and addresses of the Burgess and members of the Council of the Borough of Johnsonburg, Elk County, Pennsylvania, are as follows:

Council

Max Roberts, President
 Earl M. Detwiler
 Gerald F. Russell
 Robert D. Neilson
 Stanley Kowalski
 Joseph R. Stubber, Jr.
 Kenneth L. Riley
 Burgess:
 Roy H. Nelson

Addresses

413 High Street, Johnsonburg, PA
 513 First Avenue, Johnsonburg, PA
 125 Mary Street, Johnsonburg, PA
 Powers Avenue, Johnsonburg, PA
 109 First Avenue, Johnsonburg, PA
 1049 E. Center Street, Johnsonburg, PA
 226 Cushing Avenue, Johnsonburg, PA
 209 Cobb Street, Johnsonburg, PA

The names and addresses and terms of office of the first members of the Board of said Authority are as follows:

Name	Term	Address
John P. Fry	1 year	712 Penn Street Johnsonburg, PA
Dr. Charles T. Fleming	2 years	254 East Avenue, Johnsonburg, PA
Andrew J. Buerk	3 years	211 Bridge Street, Johnsonburg, PA

2. Editor's Note: See now 53 Pa.C.S.A. § 5601 et seq.

Name	Term	Address
Lyle E. Anderson	4 years	520 High Street, Johnsonburg, PA
Merle E. Cross	5 years	305 W. Center Street, Johnsonburg, PA

All of whom reside in and are citizens of the Borough of Johnsonburg, Elk County, Pennsylvania.

WITNESS the hands of the Burgess, the President and Secretary of the Borough Council and the seal of the Borough.

BOROUGH OF JOHNSONBURG

Burgess

Attest:

President of Council

Secretary
(SEAL)

COMMONWEALTH OF :
PENNSYLVANIA :
: SS
COUNTY OF ELK :

On this ____ day of _____, 1953, before me, the undersigned, personally came the above named _____ and _____, whose official positions in the incorporating municipality are, respectively, the Burgess, President of Council and Secretary of Council of the Borough of Johnsonburg, and who in due form of law acknowledged the foregoing to be the act and deed of the incorporating municipality for the purposes therein specified.

WITNESS my hand and official seal the day and year aforesaid.

Notary Public

§ 10-3. Execution and filing of Articles of Incorporation; notice.

Said proposed Articles of Incorporation of said Authority shall be executed by and on behalf of the Borough of Johnsonburg by the Mayor and the President of Council of said Borough, and the seal of said Borough shall be thereto affixed, attested by the Secretary of the Council of said Borough, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to cause to be published the notice of intention to file the Articles of

Incorporation with the Secretary of the Commonwealth as required by the aforementioned Act.

Chapter 21

DRUG TASK FORCE

- | | |
|--------------------------------------|---|
| § 21-1. Intent to participate. | § 21-6. Purpose and objectives. |
| § 21-2. Scope of agreement. | § 21-7. Financing of agreement. |
| § 21-3. Utilization of police force. | § 21-8. Organizational structure. |
| § 21-4. Establishment of procedures. | § 21-9. Acquisition, management and disposal of property. |
| § 21-5. Term of agreement. | § 21-10. Responsibility of municipality. |

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 10-9-1991 by Ord. No. 91-668, approved 10-9-1991. Amendments noted where applicable.]

§ 21-1. Intent to participate.

The Borough of Johnsonburg has evidenced its intent to participate in the Municipal Drug Task Force activities in cooperation with the commonwealth's Office of the Attorney General designed to interdict the illegal use and trafficking of narcotics and other illegal drugs within its municipal boundaries as well as within the boundaries of nearby communities.

§ 21-2. Scope of agreement.

This agreement may include intergovernmental cooperative activities with adjacent and nearby municipal governments as part of a regional effort to interdict illegal drug activities.

§ 21-3. Utilization of police force.

The Borough of Johnsonburg shall utilize the services of its police force, both full-time as well as part-time, under the conditions set forth in the agreement and in compliance with the Municipal Police Jurisdiction Act, 42 Pa.C.S.A. § 8953.

§ 21-4. Establishment of procedures.

The Borough of Johnsonburg shall establish, pursuant to the terms of the Municipal Drug Task Force Agreement, appropriate procedures to comply with all relevant provisions of the agreement and relevant regulations, direction and guidance from the Office of the Attorney General.

§ 21-5. Term of agreement.

The term of the agreement shall commence on October 9, 1991, and may be terminated at any time upon 30 days' written notice.

§ 21-6. Purpose and objectives.

The purpose and objectives of the agreement include regionwide coordination of the municipal police activities in an effort to combat illegal narcotics and drug trafficking.

§ 21-7. Financing of agreement.

The agreement shall be financed with the assistance of funds supplied by the Office of the Attorney General of the Commonwealth of Pennsylvania.

§ 21-8. Organizational structure.

The organizational structure necessary to implement the terms of this agreement shall be covered by directives, procedures and guidance from the Office of the Attorney General and other area police departments.

§ 21-9. Acquisition, management and disposal of property.

All property, real or personal, acquired, managed or disposed of pursuant to this agreement shall be in accordance with both the terms of the agreement as well as the directives, procedures and guidance of the Office of the Attorney General.

§ 21-10. Responsibility of municipality.

The municipality shall retain responsibility for the management, control and direction of its employees with assistance, financial or otherwise, from the office of the Attorney General.

Chapter 28

FIRE DEPARTMENT

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| § 28-1. Fire Department established. | § 28-10. Duties and officers of Fire Police. |
| § 28-2. Membership; records. | § 28-11. Answering fire alarms. |
| § 28-3. Officers of Department. | § 28-12. Disobedience or unbecoming conduct. |
| § 28-4. Terms of office. | § 28-13. Ownership and use of equipment and buildings. |
| § 28-5. Annual election and appointment of officers; vacancies. | § 28-14. Speed limits inapplicable to fire vehicles answering calls. |
| § 28-6. Powers and duties of Fire Chief. | § 28-15. Definitions. |
| § 28-7. Duties of Deputy Fire Chief. | § 28-16. Additional rules and regulations authorized. |
| § 28-8. Duties of Assistant Fire Chief and President. | |
| § 28-9. Meetings of officers; discipline of members. | |

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 9-12-1967 by Ord. No. 547, approved 9-12-1967. Amendments noted where applicable.]

GENERAL REFERENCES

Firemen's Relief Association — See Ch. 33.

§ 28-1. Fire Department established.

There is hereby established a Fire Department in the Borough of Johnsonburg, which shall be known as the "Johnsonburg Fire Department," which shall consist of as many members as the Council of said Borough may deem necessary and whose membership therein shall be secured in the manner hereafter provided.

§ 28-2. Membership; records. ¹

The secretary of the Fire Department in the Borough of Johnsonburg shall file with the Secretary of the Borough Council a list of the names of all members of such Department. Names of new members elected to the Department shall likewise be submitted to the Secretary of the Borough Council. The Secretary of the Borough Council shall keep a record of the membership of the Department, and shall strike from the list the name of any member of the Department whose membership in such Department has ceased from any cause.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 28-3. Officers of Department. ²

The officers of the Johnsonburg Fire Department shall be a Fire Chief, Deputy Fire Chief, Assistant Fire Chief, a President, Vice President, a Secretary, a Treasurer, and as many subordinate officers as the bylaws may provide.

§ 28-4. Terms of office. ³

The term of office of all officers of the Department shall begin on the third Thursday in January each year, and each officer shall serve one year or until his successor is elected and duly qualified.

§ 28-5. Annual election and appointment of officers; vacancies. ⁴

Nominations for offices shall be opened at the November Fire Department and shall remain open until the December meeting. Eligibility for the office (as specified in the Fire Department bylaws) shall be checked and a ballot prepared. Balloting will be done by secret ballot on the third Thursday of January each year, as provided for in the Fire Department bylaws. Vacancies occurring from any cause shall be filled for the unexpired term, at the next regular monthly meeting of the Department according to its bylaws.

§ 28-6. Powers and duties of Fire Chief.

The Fire Chief shall have sole command at all fires over the members of the Fire Department while on duty, and shall have police power at all fires. The Fire Chief shall further have the power, should he deem it necessary, to tear down a building before it has caught fire, in order to save other property. It shall be the Fire Chief's duty to examine into the condition of all of the apparatus and equipment belonging to the Borough and used by the Fire Department. The Fire Chief shall have the power to suspend any member or members of the Fire Department for any act or omission detrimental to the efficiency and discipline of the Department, until such time as such member's or members' case is brought before the Board of Officers for investigation.

§ 28-7. Duties of Deputy Fire Chief. ⁵

It shall be the duty of the Deputy Fire Chief to assist the Fire Chief at all fires, and in the absence of the Fire Chief, he shall assume command and discharge the duties pertaining to that office.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 28-8. Duties of Assistant Fire Chief and President. ⁶

It shall be the duty of the Assistant Fire Chief to assist the Chief and the Deputy Fire Chief at all fires, and in their absence, he shall assume command and discharge the duties pertaining to the office of Fire Chief, and in the absence of the Fire Chief, Deputy Fire Chief and Assistant Fire Chief, the highest ranking officer on the fireground shall assume control as next officer in rank.⁷

§ 28-9. Meetings of officers; discipline of members. ⁸

- A. The President, Vice President, Secretary and Treasurer shall hold such stated meetings as they may provide for and shall work for the general good of the Fire Department. Special meetings may be called as specified in the Fire Department bylaws.
- B. When necessary to discipline members, a committee consisting of the President, Vice President, Secretary, Treasurer, Fire Chief, Deputy Fire Chief, and Assistant Fire Chief shall investigate the incident, determine wrongdoing and specify action against the person(s) involved. Should any individual feel the decision of the Fire Department disciplinary committee is inappropriate, they have the right to take their situation before the Borough Council.

§ 28-10. Duties and officers of Fire Police. ⁹

The duty of the Captain of said force shall be to command the Fire Police when on duty; the duty of the Lieutenants of said Fire Police shall be to assist the Captain in performing his duty, and in the absence of said Captain, the Lieutenant shall have power to perform the duties of the Captain. It shall be the duty of the members of said force to hold themselves in readiness to answer all fire alarms; to be present at all fires within the Borough limits; to use such tools, implements, machinery and apparatus as may be provided for them to perfect the purpose of their organization; to use every lawful effort to protect property from theft or fire and, so far as may be consistent with public safety, to protect all property from molestation and destruction. All members shall be sworn in by the Mayor to perform their duties with fidelity and shall be under the direction of the Fire Chief and shall report to him at all fires.¹⁰

§ 28-11. Answering fire alarms. ¹¹

It shall be the duty of all members whenever a fire alarm sounds to proceed to the station to get appropriately dressed and on the apparatus in order to proceed to the scene of the fire or

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

7. Editor's Note: Original § 8-9, Inspections of premises; removal of combustible material; costs, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

10. Editor's Note: Original § 8-12, Insignia hats for Fire Chief and Assistant Chiefs, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

other emergency. Apparatus, when approaching the incident, shall confer via radio or appropriate means with the Incident Commander for further instructions.

§ 28-12. Disobedience or unbecoming conduct. ¹²

Should any fireman refuse to obey any legal orders of the Fire Chief or Deputy Fire Chief, Assistant Fire Chief or any officer in charge, while on duty, or engage in conduct unbecoming a fireman, charges shall be brought in writing and the same shall be referred to the Board of Officers of the Department for action.

§ 28-13. Ownership and use of equipment and buildings. ¹³

The Fire Department shall have ownership of all Fire Department equipment and buildings.¹⁴

§ 28-14. Speed limits inapplicable to fire vehicles answering calls.

Fire Department vehicles, when answering fire or emergency calls, shall not be subject to the regulations of the Borough governing the speed at which vehicles may drive or travel within the Borough limits on the Borough streets.¹⁵

§ 28-15. Definitions.

The word "alarm" or the word "call," when used in this chapter, shall mean all calls that the Fire Department answers for any emergency, including, but not limited to, fire calls, rescue calls, ambulance calls, flood calls and calls for civil disturbances and windstorms.

§ 28-16. Additional rules and regulations authorized. ¹⁶

The members of the Johnsonburg Fire Department and the Board of Officers may adopt such further rules and regulations governing the Fire Department as they may deem necessary.

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

14. Editor's Note: Original § 8-16, Right-of-way of fire equipment; duty of driver; violations and penalties, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

15. Editor's Note: See Ch. 292, Vehicles and Traffic, § 292-7.

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 33

FIREMEN'S RELIEF ASSOCIATION

§ 33-1. Official recognition of Association.

§ 33-2. Payment of funds to Association.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 3-3-1931 by Ord. No. 331, approved 3-3-1931. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 28.

Police Pension Plan — See Ch. 64, Art. II.

Municipal Employees Retirement Fund — See Ch. 64, Art. I.

§ 33-1. Official recognition of Association. ¹

The Johnsonburg Firemen's Relief Association is hereby duly recognized by the Borough Council of the Borough of Johnsonburg as the official Relief Fund Association of the Johnsonburg Fire Department to receive from the Borough Treasurer any and all payments received by him from the State Treasurer under or by virtue of the Foreign Fire Insurance Tax Distribution, 53 P.S. § 895.701 et seq., and to distribute the same according to law.

§ 33-2. Payment of funds to Association.

The Borough Treasurer is hereby authorized and directed to pay over to said Johnsonburg Firemen's Relief Association, as soon as the same is received by him/her, the entire amount received by him/her from the State Treasurer of the Commonwealth of Pennsylvania on account of the amount due said Borough of Johnsonburg from the two-percent tax paid upon premiums by foreign fire insurance companies.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 46

LIBRARY

§ 46-1. Municipal support of public library.

§ 46-4. Rights and duties of Board of Directors.

§ 46-2. Municipal appointees to Board of Directors.

§ 46-5. Annual reports to Mayor and Council.

§ 46-3. Bond of Treasurer of Board of Directors.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 2-13-1968 by Ord. No. 553, approved 2-13-1968. Amendments noted where applicable.]

§ 46-1. Municipal support of public library.

The Borough of Johnsonburg agrees to assist in the maintenance of the Johnsonburg Public Library in accordance with Section 401 of the Library Code,¹ the Act of June 14, 1961, P.L. 324, by maintaining a level of financial support which will ensure that the library will qualify annually for state financial aid in accordance with Section 303(1) of the Library Code.²

§ 46-2. Municipal appointees to Board of Directors.

In accordance with Section 411 of the Library Code,³ the Johnsonburg Borough Council and the Mayor shall appoint at least two people to serve as the Borough's representatives on the Board of Directors of the Johnsonburg Public Library, each representative to serve three years, the terms to expire in different years. Subsequent vacancies shall be filled by appointment by the Mayor and Borough Council.

§ 46-3. Bond of Treasurer of Board of Directors.

The Treasurer of the Board of Library Directors of the Johnsonburg Public Library shall give bond to the Borough of Johnsonburg, with satisfactory surety, in such amount as the Board of Directors of the library shall determine in accordance with Section 412 of the Library Code.⁴

§ 46-4. Rights and duties of Board of Directors.

The management of the Johnsonburg Public Library and the funds appropriated to its use by the Borough of Johnsonburg, as well as any moneys received by the library from other

1. Editor's Note: See now 24 Pa.C.S.A. § 9351.

2. Editor's Note: See now 24 Pa.C.S.A. § 9301 et seq.

3. Editor's Note: See now 24 Pa.C.S.A. § 9318(a) through (c).

4. Editor's Note: See now 24 Pa.C.S.A. § 9318(d) and (e).

sources, shall be under the exclusive control of the Johnsonburg Board of Library Directors, as provided by the Library Code. Said Board shall have all the rights and duties delegated to it by the Library Code. As provided by the Library Code, the accounts of the Treasurer of the Board shall be audited annually and the Board of Library Directors shall present a financial report to the Borough Council annually.

§ 46-5. Annual reports to Mayor and Council.

Each year the Board of Library Directors shall prepare and present to the Mayor and the Johnsonburg Borough Council, during the month of December, the various reports, including the financial report, for the preceding year, as required under Section 414 of the Library Code.⁵

5. Editor's Note: See now 24 Pa.C.S.A. § 9318(h).

Chapter 60

OFFICERS AND EMPLOYEES

ARTICLE I **Manager**

- § 60-1. Creation of office.**
- § 60-2. Appointment and removal.**
- § 60-3. Qualifications for office.**
- § 60-4. Manager's bond; premiums.**
- § 60-5. Salary.**
- § 60-6. Powers and duties of Manager.**
- § 60-7. Policy regarding employment and supervision of administrative personnel.**
- § 60-8. Disability or absence of Manager.**

ARTICLE II **Auditor**

- § 60-9. Office of elected Auditor abolished.**
- § 60-10. Appointment of Auditor authorized; qualifications; term.**
- § 60-11. Compensation of Auditor.**

ARTICLE III **Code Enforcement Officer**

- § 60-12. Establishment of Code Enforcement Officer.**
- § 60-13. Relief from liability.**
- § 60-14. Records and reports.**
- § 60-15. Term, compensation and number of Code Enforcement Officers.**
- § 60-16. Powers and duties.**

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal Authority — See Ch. 10.
Fire Department — See Ch. 28.
Library — See Ch. 46.

Planning Department and Planning Commission — See Ch. 71.
Recreation Board — See Ch. 87.
Shade Tree Commission — See Ch. 94.

ARTICLE I **Manager**

Adopted 8-6-1963 by Ord. No. 506, approved 8-6-1963]

§ 60-1. Creation of office.

The office of Borough Manager is hereby created by the Borough of Johnsonburg.

§ 60-2. Appointment and removal.

The Manager shall be appointed by a vote of the majority of all the members of Council, and he or she shall serve until removed by a majority vote of all the members.

§ 60-3. Qualifications for office.

The Manager shall be chosen solely on the basis of his or her executive and administrative abilities, with special reference to his or her actual experience in or his or her knowledge of accepted practices in respect to the duties of his/her office as herein outlined. The Manager need not be a resident of the Borough of Johnsonburg or the State of Pennsylvania at the time of his or her appointment, but as soon as possible thereafter, he or she shall become and during his/her term of service he/she shall remain a resident of the Borough of Johnsonburg.

§ 60-4. Manager's bond; premiums.

Before entering upon his/her duties, the Manager shall give a bond to the Borough with a bonding company as surety, to be approved by the Council, in the sum of \$10,000, conditioned for the faithful performance of his/her duties. The premium shall be paid by the Borough.

§ 60-5. Salary.

The salary of the Borough Manager shall be fixed from time to time by ordinance or resolution.

§ 60-6. Powers and duties of Manager.

- A. The Manager shall be the chief administrative officer of the Borough and he/she shall be responsible to the Council as a whole for the proper and efficient administration of the affairs of the Borough. His/her powers and duties shall relate to the general management of all Borough business not expressly by statute imposed or conferred upon other Borough officers.
- B. Subject to recall by ordinance of Council, the powers and duties of the Borough Manager shall include the following:
 - (1) He/she shall supervise and be responsible for the activities of all municipal departments, except the Police, Fire and Health Departments, Recreation Board, and Zoning and Planning Commission.¹
 - (2) He/she shall hire and, when necessary for the good of the service, shall suspend or discharge all employees under his/her supervision, provided that persons covered by the civil service provisions of the Borough Code shall be hired, suspended or discharged in accordance with such provisions, and provided further that the

1. Editor's Note: See Ch. 71, Planning Department and Planning Commission, and Ch. 87, Recreation Board.

Manager shall report, at the next meeting thereafter of Council, any action taken by authority of this subsection.

- (3) He/she shall prepare and submit to Council before the close of the fiscal year, or at such time as Council shall determine, a budget for the next fiscal year, with an explanatory budget message. In preparing the budget, the Manager or an officer designated by him/her shall obtain from the head of each department, agency, board or officer estimates of revenues and expenditures and other supporting data as he/she requests. The Manager shall review such estimates and may revise them before submitting the budget to Council.
- (4) He/she shall be responsible for the administration of the budget after its adoption by Council.
- (5) He/she shall hold such other municipal offices or head one or more of the municipal departments as the Council may from time to time direct.
- (6) He/she shall attend all meetings of Council and its committees, with the right to take part in the discussion. He/she shall receive notice of all special meetings of Council or its committees.
- (7) He/she shall prepare the agenda for each meeting of Council and supply such facts as are pertinent thereto.
- (8) He/she shall keep the Council informed as to the conduct of Borough affairs and submit periodic reports on the condition of the Borough finance and such other reports as the Council requests. He/she shall make such recommendations to the Council as he/she deems necessary.
- (9) He/she shall submit to Council, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the Borough for the preceding year.
- (10) He/she shall see that the provisions of all franchises, leases, permits and privileges granted by the Borough are observed. He/she shall attend to the letting of contracts in a form required by law, and he/she shall supervise the performance and faithful execution of the same.
- (11) He/she shall see that all money owed the Borough is promptly paid and that proper proceedings are taken for the security and collection of all the Borough's claims.
- (12) He/she shall be the Purchasing Officer of the Borough and he/she shall purchase, in accordance with the Borough Code, all supplies and equipment for the agencies, boards, departments and other offices of the Borough. He/she shall keep an account of all purchases and shall, from time to time or when directed by Council, make a full report thereof. He/she shall also issue rules and regulations, subject to the approval of Council, governing the requisition and purchasing of all municipal supplies and equipment.
- (13) All complaints regarding services or personnel of the Borough shall be referred to the office of the Manager. He/she, or an officer designated by him/her, shall

investigate and dispose of such complaints, and the Manager shall report thereon to Council.

§ 60-7. Policy regarding employment and supervision of administrative personnel.

Neither the Council nor any of its committees or members shall dictate or attempt to dictate the hiring of any person to, or his/her discharge from, employment by the Manager, or in any manner take part in the hiring, suspending or discharge of employees in the administrative service of the Borough, except as required to do so by the civil service provisions of the Borough Code. Except for the purpose of inquiry, the Council, its committees and its members shall deal with the administrative service and the employees solely through the Borough Manager, and neither the Council nor any of its committees nor any of its members shall give orders, publicly or privately, to any subordinates of the Manager.

§ 60-8. Disability or absence of Manager.

If the Manager becomes ill or needs to be absent from the Borough, he/she shall designate one qualified member of his/her staff who shall perform the duties of the Manager during his/her absence or disability. A person so designated shall not perform these duties for a period longer than two weeks without the approval of the Council.

ARTICLE II

Auditor

[Adopted 9-14-1971 by Ord. No. 581]

§ 60-9. Office of elected Auditor abolished.

The office of elected Auditor for the Borough of Johnsonburg as established by the provisions of the Pennsylvania Borough Code,² is hereby abolished.

§ 60-10. Appointment of Auditor authorized; qualifications; term.

In place of the office of elected Borough Auditor, the Borough Council shall, by resolution following passage of this article, appoint an independent Auditor for the Borough of Johnsonburg who shall be a certified public accountant registered in Pennsylvania, a firm of certified public accountants so registered, a competent public accountant or a competent firm of public accountants. The accountant or firm of accountants appointed under this article by Council shall serve until the end of the present fiscal year of the Borough. During this time, said accountant or firm of accountants shall have all the rights, powers and duties conferred upon them by the Pennsylvania Borough Code. Thereafter, the Borough Council shall, by resolution adopted prior to the close of each fiscal year, appoint the independent Auditor for the Borough. Said Auditor shall be a certified public accountant registered in Pennsylvania, a firm of certified public accountants so registered, a competent public accountant or a

2. Editor's Note: See 8 Pa.C.S.A. § 1041 et seq.

competent firm of public accountants. Said Auditor shall exercise all the rights, powers and duties as established and conferred by the Pennsylvania Borough Code.

§ 60-11. Compensation of Auditor.

The compensation of the independent Auditor shall be determined by the Borough Council and shall be paid out of Borough funds as provided by law.

ARTICLE III

Code Enforcement Officer

[Adopted 2-11-2013 by Ord. No. 2013-01]

§ 60-12. Establishment of Code Enforcement Officer.

There is hereby created by the Borough of Johnsonburg a position of Code Enforcement Officer which shall be under the direction and control of Borough Council and shall have the responsibility for administering and enforcing the provisions of this article and other codes and/or ordinances of the Borough.

§ 60-13. Relief from liability.

The Code Enforcement Officer charged with the enforcement of this article and those other codes and/or ordinances of the Borough who act in good faith and without malice in the discharge of their duties shall not thereby be rendered liable personally, and the Code Enforcement Officer is hereby relieved from all personal liability from any damage that may accrue to persons or property as a result of any act, required or committed, or any omission in the discharge of official duties. Any suit instituted against the Code Enforcement Officer because of any act performed by the person in the lawful discharge of duties shall be defended by the Borough's Solicitor or his designee until final determination of the proceedings. The Code Enforcement Officer shall not be liable for any costs in any action, suit or proceeding.

§ 60-14. Records and reports.

The Code Enforcement Officer shall keep a written record of the activities of said officer and shall report to the Borough Council of his activities upon request of the Council.

§ 60-15. Term, compensation and number of Code Enforcement Officers.

The term, compensation and number of the Code Enforcement Officers shall be solely determined by the Council of the Borough of Johnsonburg, by resolution as it shall from time to time deem appropriate.

§ 60-16. Powers and duties.

- A. Enforcement of codes. The Code Enforcement Officer shall enforce and administer all of the provisions of this article and of those other applicable codes and ordinances of the Borough.
- B. Duties. The duties of the Code Enforcement Officer shall include, but not be limited to, the undertaking of such investigations and other activities as may be required to determine compliance with the applicable codes and ordinances of the Borough, to issue all necessary notices to abate illegal or unsafe conditions to insure compliance with the Borough's Code for the safety, health, and general welfare of the public and to make inspections and determine compliance with the applicable codes and ordinances of the Borough.
- C. Credentials. The Code Enforcement Officer shall disclose proper credentials of his office for the purpose of inspecting any and all buildings and premises and in the performance of his duties under the applicable codes or ordinances where requested.
- D. Legal action. The Code Enforcement Officer shall be authorized to initiate, on behalf of the Borough, appropriate legal actions against persons or other legal entities for violations of the Borough's Code.

Chapter 64

PENSIONS

ARTICLE I

Municipal Employees Retirement Fund

§ 64-1. Election to administer plan.

§ 64-2. Benefits as provided in Contract.

§ 64-3. Acceptance of Contract.

§ 64-4. Payment for obligation.

§ 64-5. Authorization; effect on prior provisions.

§ 64-6. Filing of article.

ARTICLE II

Police Pension Plan

§ 64-7. Election to administer plan.

§ 64-8. Benefits as provided in Contract.

§ 64-9. Acceptance of Contract.

§ 64-10. Payment for obligation.

§ 64-11. Authorization; effect on prior provisions.

§ 64-12. Filing of article.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Firemen's relief association — See Ch. 33.
Officers and employees — See Ch. 60.

Police Department — See Ch. 78.

ARTICLE I

Municipal Employees Retirement Fund [Adopted 9-10-2012 by Ord. No. 2012-03]

§ 64-1. Election to administer plan.

Johnsonburg Borough (the Borough), being a member municipality of the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Municipal Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. § 881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 et seq., and to assume all obligations, financial and otherwise, placed upon member municipalities.

§ 64-2. Benefits as provided in Contract.

As part of this article, the Borough agrees that the System shall administer and provide the benefits set forth in the amended Municipal Pension Plan Contract entered into between the Pennsylvania Municipal Retirement Board and the Borough effective January 1, 2012 (the Contract).

§ 64-3. Acceptance of Contract.

The passage and adoption of this article by the Borough is an official acceptance of the Contract and the financial obligations resulting from the administration of the Contract.

§ 64-4. Payment for obligation.

Payment for any obligation established by the adoption of this article and the Contract shall be made by the Borough in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Borough hereby assumes all liability for any unfundedness created due to the benefit structure set forth in the Contract.

§ 64-5. Authorization; effect on prior provisions.

The Borough intends this article to be the complete authorization of the Contract and it shall become effective and specifically repeal Ordinance Number 2008-01 either immediately or on January 1, 2012, which is the effective date of the Contract, whichever is later.

§ 64-6. Filing of article.

A duly certified copy of this article and an executed Contract shall be filed with the System.

ARTICLE II
Police Pension Plan
[Adopted 9-10-2012 by Ord. No. 2012-04]

§ 64-7. Election to administer plan.

Johnsonburg Borough (the Borough), being a member municipality of the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Police Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. § 881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 et seq., and to assume all obligations, financial and otherwise, placed upon member municipalities.

§ 64-8. Benefits as provided in Contract.

As part of this article, the Borough agrees that the System shall administer and provide the benefits set forth in the amended Police Pension Plan Contract entered into between the Pennsylvania Municipal Retirement Board and the Borough effective January 1, 2012 (the Contract).

§ 64-9. Acceptance of Contract.

The passage and adoption of this article by the Borough is an official acceptance of the Contract and the financial obligations resulting from the administration of the Contract.

§ 64-10. Payment for obligation.

Payment for any obligation established by the adoption of this article and the Contract shall be made by the Borough in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Borough hereby assumes all liability for any unfundedness created due to the benefit structure set forth in the Contract.

§ 64-11. Authorization; effect on prior provisions.

The Borough intends this article to be the complete authorization of the Contract and it shall become effective and specifically repeal Ordinance Number 2008-02 either immediately or on January 1, 2012, which is the effective date of the Contract, whichever is later.

§ 64-12. Filing of article.

A duly certified copy of this article and an executed Contract shall be filed with the System.

Chapter 71

PLANNING DEPARTMENT AND PLANNING COMMISSION

§ 71-1. Department and Commission created.

§ 71-2. Powers and duties of Commission.

§ 71-3. Appointment and service of members of Commission; reports.

§ 71-4. Commission to operate within limits of appropriations.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 12-4-1962 by Ord. No. 501, approved 12-4-1962. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal Authority — See Ch. 10.

Recreation Board — See Ch. 87.

Shade Tree Commission — See Ch. 94.

Subdivision of land — See Ch. 265.

Zoning — See Ch. 310.

§ 71-1. Department and Commission created.

There is hereby created a Johnsonburg Borough Planning Department. This Department shall be in the charge of the Johnsonburg Borough Planning Commission, which Commission is also created by this chapter.

§ 71-2. Powers and duties of Commission.

The Johnsonburg Borough Planning Commission shall be constituted as provided by law and shall have all the powers and duties now or hereafter vested in it by the Borough Code or other applicable state law.

§ 71-3. Appointment and service of members of Commission; reports.

All members of the Commission shall be appointed by resolution of the Borough Council; they shall serve without pay and shall make an annual report to Council of their activities as well as such other reports as Council may from time to time require.

§ 71-4. Commission to operate within limits of appropriations.

Said Borough Planning Commission shall operate at all times within the limits of the appropriations made to it by the Council of the Borough of Johnsonburg.

Chapter 78

POLICE DEPARTMENT

§ 78-1. Establishment of Department; positions; duties.

§ 78-2. Establishment of rules and regulations and job descriptions.

§ 78-3. Disciplinary action.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 6-8-1976 by Ord. No. 617, approved 6-8-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Fire Department — See Ch. 28.

Police Pension Plan — See Ch. 64, Art. II.

§ 78-1. Establishment of Department; positions; duties. [Amended 6-12-1979 by Ord. No. 79-634, approved 6-12-1979; 3-9-2009 by Ord. No. 2009-01]

- A. There is hereby established a Police Department of the Borough of Johnsonburg which shall have the following positions:
 - (1) A Chief of Police who shall be in charge of all police officers and shall direct and coordinate a municipal program of public safety. In the event of an absence of the Chief of Police, a full-time police patrolman may be appointed at Borough Council's discretion as officer in charge. He/she shall have the duties and responsibilities the same as if he/she were the Chief of Police.¹
 - (2) Police Patrolman in such numbers as the Council shall authorize, who shall perform the general duty police work in the protection of life and property throughout the Borough of Johnsonburg.
- B. The Chief of Police shall assume and perform such other duties and responsibilities as are imposed upon him by the Police Department general rules and regulations as established by the Mayor of Johnsonburg with the approval of the Johnsonburg Borough Council.

§ 78-2. Establishment of rules and regulations and job descriptions. ²

- A. The Mayor, as head of the Police Department, is hereby authorized to establish and promulgate a Police Officers' Code of Ethics, job description for police positions, rules of conduct for all police officers, a disciplinary code for all members of the Borough Police Department.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. The Mayor shall, upon establishing the Code of Ethics, job description, disciplinary code, submit the same to Borough Council for adoption.

§ 78-3. Disciplinary action. [Amended 6-12-1979 by Ord. No. 79-634, approved 6-12-1979]

Whenever the Mayor shall take disciplinary action against any policeman, Sergeant or the Chief of Police under the Codes and Rules established pursuant to this chapter and the Borough Code, he shall report the action taken to the Borough Manager immediately and to the members of the Johnsonburg Borough Council at their next regularly scheduled meeting or at any special meeting called for this purpose and he shall otherwise comply with the Borough Code if so required by the nature of the disciplinary action taken.

Chapter 87

RECREATION BOARD

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| § 87-1. Board created; membership. | § 87-5. Functions of Board. |
| § 87-2. Purpose of Board. | § 87-6. Acceptance of gifts and donations. |
| § 87-3. Appointments and terms of office; vacancies; uncompensated service. | § 87-7. Powers and duties of Board; restrictions. |
| § 87-4. Organization of Board; bylaws, rules and regulations; meetings. | § 87-8. Reports. |

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 12-4-1962 by Ord. No. 500, approved 12-4-1962. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal Authority — See Ch. 10.
Library — See Ch. 46.

Planning Department and Planning Commission — See Ch. 71.
Shade Tree Commission — See Ch. 94.

§ 87-1. Board created; membership. [Amended 4-19-1966, approved 4-19-1966; 10-9-1984 by Ord. No. 84-644, approved 10-9-1984; 5-13-2003 by Ord. No. 2003-1, approved 5-13-2003.]

There is hereby created for the Borough of Johnsonburg a Recreation Board, which Board shall consist of five members to be selected and appointed by the Council of the Borough in accordance with the provisions of the Pennsylvania Borough Code, 8 Pa.C.S.A. § 2709(a).

§ 87-2. Purpose of Board.

The purpose of the Recreation Board shall be to provide, conduct and maintain all present and future public recreation areas, facilities and centers within the Borough of Johnsonburg in accordance with a unified plan aimed at making maximum effective use of such recreation areas, facilities and centers for the benefit of all the citizens of Johnsonburg.

§ 87-3. Appointments and terms of office; vacancies; uncompensated service.

Members of the Board shall serve without pay. They shall be appointed by Council for a term of five years and until their successors are appointed, except members first appointed shall be so appointed that the term of one member shall expire annually thereafter. Vacancies shall be filled in the same manner as original appointments; the new appointee shall serve for the unexpired term only.

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1. Editor's Note: This ordinance also provided: "It is further ordained that all other provisions of Chapter 25 of the Johnsonburg Borough Code not inconsistent with this amendment are hereby restated."

§ 87-4. Organization of Board; bylaws, rules and regulations; meetings. [Amended 4-19-1966, approved 4-19-1966]

The Recreation Board shall appoint from its membership its own Chairman and Secretary and such other officers as it deems necessary to serve for one year, and it may adopt bylaws, rules and regulations governing its procedure, not inconsistent with the provisions of the Borough Code. The Recreation Board shall from time to time make rules and regulations governing the conduct, operation and use of its recreation facilities, which rules shall be submitted to the Borough Council for final approval. The Board shall hold regular meetings at such times and places as it may designate.

§ 87-5. Functions of Board.

The Recreation Board shall maintain, operate and supervise the public parks, playgrounds and all outdoor and indoor recreation areas and facilities owned or controlled by the Borough of Johnsonburg, as well as such other recreation areas and facilities as may be entrusted to its care.

§ 87-6. Acceptance of gifts and donations.

The Recreation Board may accept any grant, gift, bequest or donation of services, equipment, real estate or money from any individual or group, to be used as specified by the donor or by the terms of the acceptance.

§ 87-7. Powers and duties of Board; restrictions.

The Recreation Board shall have all the powers and duties now or hereafter vested in it by the Borough Code or by other applicable state law. In addition, said Board shall operate at all times within the limits of appropriations made to it by the Council of the Borough of Johnsonburg and such other appropriations or money as may be received by it from the Johnsonburg Area School District or any other sources.

§ 87-8. Reports.

The Recreation Board shall make an annual report of its activities and operation to the Borough Council and such other reports from time to time as Council may request.

Chapter 94

SHADE TREE COMMISSION

§ 94-1. Commission created.

§ 94-2. Powers and duties.

§ 94-3. Membership and terms of office; uncompensated service.

§ 94-4. Assessment of penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 6-13-1967 by Ord. No. 542, approved 6-13-1967. Amendments noted where applicable.]

§ 94-1. Commission created.

A Shade Tree Commission composed of three members is hereby created for the Borough of Johnsonburg in accordance with the provisions of the Pennsylvania Borough Code, 8 Pa.C.S.A. § 2721 et seq..

§ 94-2. Powers and duties.

The Shade Tree Commission shall have exclusive custody and control of shade trees in the Borough and is authorized to plant, remove, maintain and protect all shade trees on the streets and highways of the Borough, and it shall further have such other duties as are imposed upon it by the Pennsylvania Borough Code, aforesaid, as amended.

§ 94-3. Membership and terms of office; uncompensated service.

The Commission shall be composed of three residents of the Borough of Johnsonburg, who shall be appointed by Council and shall serve without compensation. Council shall appoint one member of the Commission for a term of three years, one member for a term of four years and one member for a term of five years. On the expiration of a term of any Commissioner, a successor shall be appointed by the Council to serve for a term of five years.

§ 94-4. Assessment of penalties. ¹

The Shade Tree Commission may assess penalties of not more than \$1,000 for each and every violation of any regulation or rule of the Commission or of any of the provisions of the Pennsylvania Borough Code, 8 Pa.C.S.A. § 2721 et seq.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

PART II

GENERAL LEGISLATION

Chapter 110

ADULT USES

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| § 110-1. Findings and purpose. | § 110-10. Allowing dissemination of obscene material on premises; violations and penalties. |
| § 110-2. Definitions. | |
| § 110-3. Classification of business. | § 110-11. Advertising of obscene materials; violations and penalties. |
| § 110-4. Businesses prohibited in certain areas. | § 110-12. Dissemination of obscene material to minors. |
| § 110-5. Dissemination of obscene material; violations and penalties. | § 110-13. Display of obscene material. |
| § 110-6. Manufacture of obscene materials; violations and penalties. | § 110-14. Massage parlors and model studios; violations and penalties. |
| § 110-7. Promotion of pornography unlawful. | § 110-15. Violations and penalties. |
| § 110-8. Obscene performances; violations and penalties. | § 110-16. Affirmative defenses. |
| § 110-9. Assisting dissemination of obscene material; violations and penalties. | § 110-17. Severability. |
| | § 110-18. When effective; applicability. |

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 9-13-1977 by Ord. No. 77-621, approved 9-14-1977; amended in its entirety 6-14-2000 by Ord. No. 2000-622, approved 6-14-2000. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct and nuisances — See Ch. 152.

§ 110-1. Findings and purpose.

- A. The Borough Council finds that the commercial exploitation of explicit sexual conduct through the public exhibition of obscene films and the sale of obscene publications and devices and the use of so-called massage parlors and model studios for the purpose of lewdness, assignation or prostitution constitutes a debasement and distortion of a sensitive key relationship of human existence, central to family life, community welfare and the development of human personality; is indecent and offensive to the senses and to public morals and interferes with the quality of the enjoyment of life, and the public safety; and that the continued operation of such activities is detrimental to the health, safety and general welfare of the Borough of Johnsonburg, and of the residents and businesses thereof. Accordingly, the Borough Council declares such activities illegal and such activities are hereby declared a public nuisance.

- B. Notwithstanding the above, the provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; neither is it the intent nor the effect of this chapter to condone or legitimize the distribution of obscene materials.

§ 110-2. Definitions.

The words and phrases set forth below shall have the meanings respectively ascribed to them:

ADULT ARCADE — Any place to which the public is permitted or invited or in which coin-operated or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or other image-producing devices are maintained to show images to an audience, and where the image is so displayed, distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE — A commercial establishment having a substantial or significant portion of its stock-in-trade, including but not limited to books, magazines, periodicals, visual representations or writings, distinguished or characterized by emphasis on matter depicting, describing or related to specific anatomical areas or to specified sexual activities or an establishment with a segment or section devoted to the sale or display of such materials. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of materials depicting or describing specified sexual activities or specified anatomical areas and still be characterized as an adult bookstore. Such other business purposes will not serve to exempt such commercial establishment from being characterized as an adult bookstore so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET — A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL — A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign

visible for the public right-of-way which advertises the availability of this adult type of photographic productions;

- B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. Allows a tenant or occupant of the sleeping room to sublet the room for a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar graphic reproductions are displayed which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

AUDIENCE — One or more persons who are permitted to view a performance for valuable consideration of, in or from a public place.

COMMUNITY STANDARDS — The standards of the community from which the jury is drawn or would be drawn if it were the trier of the fact.

DISPLAY PUBLICLY — The exposing, placing, posting, exhibiting or in any other fashion displaying in any location, whether public or private, material or a performance in such a manner that it may be readily seen and its contents or character distinguished by normal unaided vision viewing it from a public place or vehicle.

DISSEMINATE — To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present materials or to offer or agree to do the same or to have in one's possession with intent to do the same.

ESCORT — A person who, for consideration, agrees or offers to act as a companion, guide or date for any person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY — A person or business association who or which furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT — Includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business.

ILLICIT SEX or SEXUAL IMMORALITY —

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; or
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

KNOWINGLY — Having knowledge of the character and content of the material involved or failure on notice to exercise reasonable inspection which would disclose the content and character of the same.

MASSAGE — Any method of treating the superficial soft parts of the human body for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading or any similar treatment, accomplished by hand or by the use of any instrument.

MASSAGE PARLOR — Any building or structure or portion thereof located within the Borough, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.

MODEL STUDIO —

A. Includes:

- (1) Any premises on which there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee or other consideration or compensation or a gratuity for the right or opportunity so to depict the figure model, or for admission to or for permission to remain upon or as a condition for remaining upon the premises; or
- (2) Any premises where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration or compensation or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.

B. Exception. The words "model studio" do not include:

- (1) Any studio which is operated by any college or junior college, public school or any governmental agency wherein the person, firm, association, partnership or corporation operating it has met the requirements of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma;
- (2) Any premises where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in Subsection B(1) of this subsection; or
- (3) Any studio operated by a tax-exempt, nonprofit corporation devoted to the development of art and its appreciation.

NUDITY — Uncovered or less than opaquely covered postpubertal human genitals or pubic area, the postpubertal human female breast below the point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

OBSCENE — That which is determined as obscene, applying the following guidelines:

- A. Whether the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest.
- B. Whether the subject matter depicts or describes in a patently offensive way sexual conduct of a type hereinafter described.
- C. Whether the subject matter taken as a whole lacks serious literary, artistic, political or scientific value.

PANDER — Advertising or propagandizing in connection with the sale of material, the offering of a service or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.

PERFORMANCE — Any live or reproduced exhibition, including but not limited to any play, motion-picture film, dance or appearance presented to or performed before an audience.

PERSON — A natural person, partnership or corporation. Whenever used in a clause describing or imposing a fine or term of imprisonment, or both, the term "person" as applied to partnership shall mean the partners or members thereof, and as applied to corporation, shall mean the officers thereof.

PORNOGRAPHIC — Relating to pornography.

PORNOGRAPHY — Any material or performance is pornography if all of the following elements are present:

- A. Considered as a whole by the average person applying the contemporary community standards of the Borough of Johnsonburg, it appeals to the prurient interest.
- B. It depicts, describes or represents, in a patently offensive way, sexual conduct, as hereinafter defined.
- C. It lacks serious literary, artistic, political or scientific value.

PORNOGRAPHY FOR MINORS — Any material performance is pornography for minors if all of the following elements are present:

- A. Considered as a whole by the average person applying the contemporary community standards of the Borough of Johnsonburg with respect to what is suitable for minors, it is presented in such a way as to appeal to a minor's prurient interest.
- B. It depicts, describes or represents, in a patently offensive way, nudity or sexual conduct as hereinafter defined.
- C. It lacks serious literary, artistic political or scientific value for minors.

PRURIENT INTERESTS — Desire or craving for sexual stimulation or gratification. In determining prurient interest, the material or performance shall be judged with reference to average persons, unless it appears from the character of the material or performance that it is designed to appeal to prurient interests of a particular group of persons, including but not limited to homosexuals or sadomasochists. In this case, it shall be judged with reference to the particular group for which it was designed.

PUBLIC PLACE OR VEHICLE — Any of the streets, alleys, parks, boulevards, schools or other public property in the Borough of Johnsonburg or any dance hall, rental hall, theater, amusement park, liquor establishment or depot, place of public accommodation or other private property generally frequented by the public for the purpose of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any nongovernmental agency for the use, enjoyment or transportation of the general public.

SADOMASOCHISTIC ABUSE — Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume; or the condition of such person being fettered, bound or otherwise physically restrained in an apparent act of sexual stimulation or gratification.

SEXUAL CONDUCT —

- A. Masturbation.
- B. Sexual intercourse, whether genital-genital, oral-genital, oral-anal, or anal-genital.
- C. Any erotic fondling or touching of any parts of the covered or uncovered genitals, buttocks, pubic area or breasts of the female.
- D. Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof.
- E. Sexual excitement, as hereinafter defined.
- F. Sadomasochistic abuse, as hereinbefore defined.
- G. The conduct described in Subsections A through C, inclusive, is sexual conduct, whether or not it is engaged in alone or between members of the same sex or between members of the opposite sex or between humans and animals or between humans and inanimate object.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

SEXUAL EXCITEMENT — The facial expression, movements, utterances or other responses of the human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal or who experiences the physical or sensual reactions of humans engaging in or witnessing sexual conduct.

SEXUALLY ORIENTED BUSINESS — An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS — Human genitals; pubic region; buttocks; female breasts below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES — Human male genitals in a discernibly turgid state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

§ 110-3. Classification of business.

Sexually oriented businesses are classified as follows:

- A. Adult arcades.
- B. Adult bookstores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion-picture theaters.
- F. Adult theaters.
- G. Escort agencies.
- H. Nude model studios.
- I. Sexual encounter centers.

§ 110-4. Businesses prohibited in certain areas.

It shall be unlawful to establish or maintain any sexually oriented business in or within 2,000 feet of a church, a public or private elementary or secondary school, a boundary of any residential district, a public park adjacent to any residential district or the property line of a lot devoted to residential use.

§ 110-5. Dissemination of obscene material; violations and penalties. ¹

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Any person who, with knowledge of the character and content, either sells, gives away, lends, distributes, exhibits, shows or offers either to sell, give away, lend, distribute, exhibit or show, or has in his possession or under his control with intent either to sell, give away, lend, distribute, exhibit or show to another, any obscene motion-picture film or any obscene literature, book, magazine, pamphlet, newspaper, paper, comic book, writing, drawing, photograph, figure or any written or printed matter of an obscene nature or any device, article or instrument of an obscene nature, shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

§ 110-6. Manufacture of obscene materials; violations and penalties. ²

Any person who designs, copies, draws, photographs, prints, utters, publishes or in any manner manufactures or prepares any obscene motion-picture film or any obscene book, picture, film, drawing, magazine, pamphlet, newspaper, paper, comic book, writing, figure, matter, device, article or instrument of any obscene nature shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

§ 110-7. Promotion of pornography unlawful.

- A. It shall be unlawful for any person to promote pornography. A person commits the offense of promoting pornography if, knowing its content and character, he:
- (1) Disseminates or causes to be disseminated any pornographic material in or from a public place or vehicle or for valuable consideration or has in his possession any pornographic material with intent to so disseminate or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him for such dissemination of pornographic material;
 - (2) Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic;
 - (3) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic;
 - (4) Produces, presents, directs or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him to be used for a pornographic performance before an audience;
 - (5) Participates in that portion of a live performance before an audience which makes it pornographic; or
 - (6) Panders, displays publicly or disseminates door-to-door any pornographic material or performance or causes such pandering, public display or door-to-door dissemination.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. For the purposes of this section, possession of two or more identical copies of any pornographic material by any person engaged in the business of disseminating material, as defined above, shall be prima facie evidence of possession with intent to disseminate for valuable consideration.

§ 110-8. Obscene performances; violations and penalties. ³

Any person who, with knowledge of the character and content, produces, presents or directs any obscene performance or participates in the portion thereof which is obscene shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

§ 110-9. Assisting dissemination of obscene material; violations and penalties. ⁴

Any person who knowingly participates in, supports or in any way aids or assists any person in selling, lending, distributing, giving away or showing any obscene motion-picture film or any obscene literature, book, magazine, pamphlet, newspaper, paper, comic book, writing, drawing, photograph, figure or any written or printed matter of an obscene nature or any device, article or instrument of an obscene nature shall be guilty of a summary offense and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

§ 110-10. Allowing dissemination of obscene material on premises; violations and penalties. ⁵

Any person, being the owner of any premises or having control thereof, who knowingly permits within or upon said premises the exhibition, projection or showing of any motion-picture film, show, presentation or performance of an obscene nature or permits anyone to sell, lend, distribute, exhibit, give away or show any obscene literature, book, magazine, pamphlet, newspaper, paper, comic book, writing, drawing, photograph, figure or any written or printed matter of an obscene nature or any device, article or instrument of an obscene nature shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or to undergo imprisonment for a period not exceeding 30 days, or both.

§ 110-11. Advertising of obscene materials; violations and penalties. ⁶

Whoever knowingly writes, prints, publishes or utters or causes to be printed, published or uttered any advertisement or notice of any kind giving information directly or indirectly stating or purporting to state where, how or whom or by what means, any obscene

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

motion-picture film, book, writing, paper, comic book, figure, image, matter, article or thing of any obscene nature can be seen, purchased, obtained or had shall be guilty of a summary offense, and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period of not exceeding 30 days, or both.

§ 110-12. Dissemination of obscene material to minors.

No person within the Borough of Johnsonburg shall willfully or knowingly engage in the business of selling, lending, giving away, showing, advertising for sale or distributing to any person under the age of 17 years or have in his possession with intent to engage in said business or to otherwise offer for sale or commercial distribution to any individual under the age of 17 years any obscene motion-picture film or any still picture or photograph or any book, pocket book, pamphlet or magazine, the cover or content of which exploits, is devoted to or is principally made up of descriptions or depictions of illicit sex or sexual immorality, or which is obscene or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex, lust or perversion for commercial gain, or any device, article or instrument of an obscene nature.

- A. It shall be unlawful for any person to promote pornography for minors. A person commits the offense of promoting pornography for minors if, knowing its content and character, he:
- (1) Disseminates or causes to disseminate to a minor material which is pornography for minors or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him for the dissemination to a minor of material which is pornography for minors;
 - (2) Exhibits to a minor a motion-picture film or other performance which is pornography for minors;
 - (3) Sells to a minor an admission ticket or pass to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion-picture film or other performance which is pornography for minors;
 - (4) Admits a minor to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion-picture film or other performance which is pornography for minors;
 - (5) Knowingly produces, presents, directs or allows the use of any business building, vehicle or place owned, leased, conducted or managed by him for the presentation of a performance which is pornography for minors before an audience which includes a minor; or
 - (6) Displays publicly or disseminates door-to-door any material or performance which is pornography for minors or causes such public display or door-to-door dissemination.
- B. The provision of Subsection A(1) through (5) do not apply to a parent, guardian or other persons in loco parentis to the minor.

§ 110-13. Display of obscene material.

No person within the Borough of Johnsonburg shall display at newsstands or any other commercial business establishment frequented by minors under the age of 17 years or where said minors are or may be invited as a part of the general public, any obscene motion-picture film or any still picture or photograph or any book, pocket book, pamphlet or magazine, or is principally made up of descriptions or depictions of illicit sex immorality, or which is obscene or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex, lust or perversion for commercial gain, or any device, article or instrument of an obscene nature.

§ 110-14. Massage parlors and model studios; violations and penalties. ⁷

No person shall own, operate or maintain any massage parlor or model studio in the Borough of Johnsonburg which, as a regular course of business, is used for the purpose of lewdness, assignation or prostitution, and every such massage parlor or model studio in or upon which acts of lewdness, assignation or prostitution are held or occur, is declared to be a public nuisance. Any such person violating this section shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

§ 110-15. Violations and penalties.

- A. Fines. Any person convicted of violating this chapter shall be guilty of a violation and, upon conviction before any Magisterial District Judge, shall be subject to a fine not exceeding \$1,000 and costs for each offense and, in default of payment thereof, shall be subject to imprisonment in the appropriate jail for a period not exceeding 30 days.⁸
- B. Injunction. The Council may institute proceedings in equity in the Court of Common Pleas of Elk County for the purpose of enjoining the sale, resale, lending, distribution, exhibit, gift or show of such pornographic literature, books, magazines, pamphlets, newspapers, storypapers, papers, comic books, writings, drawing, photographs, figures or images or any written or printed matter of an obscene nature of any article or instrument of a pornographic nature contrary to the provisions of this section, and for such purposes jurisdiction is hereby conferred upon said Court. A preliminary injunction may issue and a hearing thereafter be held thereon in conformity with the Rules of Civil Procedure upon the averment of the Council that the sale, resale, lending, distribution, exhibit, gift or show of such publications constitutes a danger to the welfare or peace of the community.

§ 110-16. Affirmative defenses.

It shall be an affirmative defense to a prosecution under this chapter if the pornographic material was disseminated by a person who was acting in his capacity as:

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. A teacher of an accredited course of study related to pornography at a state-approved educational institution;
- B. A licensed medical practitioner or psychologist in the treatment of a patient;
- C. A participant in the criminal justice system, such as a legislator, Judge, prosecutor, law enforcement official or other similar or related position; or
- D. A supplier to any person described in Subsections A through C above.

§ 110-17. Severability.

The provisions of this chapter shall be severable. If any court shall determine that any word, clause, phrase, sentence, paragraph or subsection of this chapter is unconstitutional as worded, the court shall first attempt to construe or interpret such unconstitutional provision, so as to enable the same to be constitutional as so narrowed or construed. If the court cannot so limit or construe such work or provision narrowly so as to render the same constitutional, it shall strike or modify only the minimum number of words, phrases, clauses, sentences or paragraphs as will be absolutely necessary to render the remainder constitutional. In no case shall a subordinate clause or phrase or word render its attached major section or provision unconstitutional, but instead shall be severed therefrom entirely, unless such severance renders the remainder wholly meaningless or unconstitutional.

§ 110-18. When effective; applicability.

This chapter shall become effective immediately and shall apply to existing establishments which are presently engaged in the type of activity herein declared to be illegal and a public nuisance.

Chapter 117

ALCOHOLIC BEVERAGES

§ 117-1. Consumption or possession in public.

§ 117-2. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 5-12-1981 by Ord. No. 81-639, approved 5-12-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct and nuisances — See Ch. 152.

§ 117-1. Consumption or possession in public. ¹

No person shall consume any alcoholic beverages or be in possession of any alcoholic beverages in an open container in any public park in the Borough, nor on any public street, public roadway, public alley or public sidewalk within the Borough, nor in or adjacent to any public facility of the Borough.

§ 117-2. Violations and penalties. ²

Any person who shall violate the provisions of this chapter shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 124

AMUSEMENTS

ARTICLE I Poolrooms and Bowling Alleys

- § 124-1. License required; fee.
- § 124-2. Issuance and display of license.
- § 124-3. Licensing year; new equipment.
- § 124-4. Gambling prohibited.
- § 124-5. Hours of operation; loitering.
- § 124-6. Violations and penalties.

ARTICLE II Mechanical Amusement Devices

- § 124-7. License required.
- § 124-8. Application for license.
- § 124-9. Period for investigation of applicant.
- § 124-10. Gambling devices prohibited.
- § 124-11. License fees.
- § 124-12. Issuance and display of license.
- § 124-13. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct and nuisances — See Ch. 152.

ARTICLE I Poolrooms and Bowling Alleys [Adopted 5-9-1917 by Ord. No. 238, approved 5-10-1917]

§ 124-1. License required; fee. ¹

The owner or owners of each and every public poolroom, billiard room, bowling saloon and tenpin alley now operating in the Borough of Johnsonburg, Pennsylvania, or that may hereafter be opened and operated therein, shall pay to the Borough Secretary for the use of the said Borough, annually in advance, a license fee of \$5 for each table or alley in use.

§ 124-2. Issuance and display of license. ²

The Borough Secretary, upon receipt of the fee above described, shall issue to the owner or owners making application therefor a license showing the number of tables or alleys licensed and paid for, which license shall be kept posted conspicuously by the owner or owners in the room where the licensed tables or alleys are located.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 124-3. Licensing year; new equipment. ³

The license year shall start with the first Monday in January and licenses shall be renewable annually thereafter; provided, however, that additional tables added during the year or set up in a new place during a license year shall be paid for proportionately for the remainder of the license year.⁴

§ 124-4. Gambling prohibited.

No gambling of any nature shall be permitted in any such poolroom, billiard room, bowling saloon or tenpin alley.

§ 124-5. Hours of operation; loitering.

No public poolroom, billiard room, bowling saloon or tenpin alley shall remain open to the public between the hours of 11:00 p.m. and 6:00 a.m., nor shall any persons be allowed to congregate or loiter therein between said hours.

§ 124-6. Violations and penalties. ⁵

- A. Any person or persons violating § 124-1 shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days, and his or their place of business shall be closed until such time as a license therefor is obtained and displayed.
- B. Any owner or manager of any such public poolroom, billiard room, bowling saloon or tenpin alley violating §§ 124-3, 124-4 or 124-5 shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days, and anyone neglecting or refusing to pay such fine when imposed shall forfeit his or their license provided in § 124-1 until such fine, together with costs, is paid.

ARTICLE II**Mechanical Amusement Devices**

[Adopted 1-16-1959 by Ord. No. 481, approved 1-16-1959]

§ 124-7. License required.

No person or persons, firm or corporation shall at any time have in its or their possession within the Borough of Johnsonburg any music box, jukebox, phonograph, pinball machines,

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Original § 35-11, Certain minors excluded, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

electronic point maker or similar devices, whether operated through the insertion therein of a coin or metal disc, slug or token or by pressing a button and/or by pulling a lever, or any other mechanical or electrical devices, machines or apparatus whatsoever, for the playing of games and amusements, and regardless of whether the money used to operate the machine is put into the machine itself or paid to the person, firm or corporation possessing the machine or whether operated by the player or user thereof or the custodian thereof, or a combination of both, without first having procured a license therefor as hereinafter provided.

§ 124-8. Application for license.

Any person or persons, firm or corporation desiring to procure a license as provided in § 124-7 of this article shall apply therefor in writing to the Chief of Police on forms prescribed and prepared by him. The application shall set forth the name or names and residence or residences of the person or persons, firm or corporation applying therefor, the name of the occupant and operator of the premises where said machines are to be used and installed and the address of said premises.

§ 124-9. Period for investigation of applicant.

No license shall be granted until a period of seven days has elapsed from the date of application, during which time the Mayor may, at his discretion, investigate, either through himself or the Police Department, the facts set forth in the application.

§ 124-10. Gambling devices prohibited.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism or machine which has been judicially determined to be a gambling device or in any way contrary to the law or that may be contrary to any future laws of the Commonwealth of Pennsylvania.

§ 124-11. License fees.

- A. No license shall be issued until an annual fee therefor shall have been paid to and for the use of the Borough of Johnsonburg in the sum of \$25 for coin-operated music boxes, jukeboxes and phonographs, and in the sum of \$50 for pinball machines, electronic point makers and all other devices to which this article applies as more fully described in § 124-7, for each unit of such device so installed and used in any one premises at any one time during the calendar year, provided that any unit for which a license fee has been paid may be exchanged or replaced by a similar unit during the calendar year without the payment of an additional license fee. It is further provided that should any such device or machine be installed after July 1 of any year, after application is made as aforesaid, then in such case the license fee for such unit or units and replacements thereof for the remaining part of that calendar year shall be the sum of \$15 for music boxes, jukeboxes and phonographs, and the sum of \$30 for all other devices to which this article applies as more fully described in § 124-7.

- B. The annual fee shall be for the calendar year or that part of the calendar year remaining after installation of such unit or device.

§ 124-12. Issuance and display of license.

Upon the payment of the license fee provided by this article, the Mayor shall issue a written license setting forth the number of the license for each machine so licensed, which license shall be attached and fastened to, or prominently displayed on the wall immediately over, each machine or device, so that the same may be clearly observed and readable.

§ 124-13. Violations and penalties. ⁶

Any person who shall violate the provisions of this article shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days.

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 130

ANIMALS

ARTICLE I Wild and Exotic Animals

§ 130-1. Title.

§ 130-2. Findings.

§ 130-3. Purpose and intent.

§ 130-4. Definitions.

§ 130-5. Keeping of exotic and/or wild animals (including bees) prohibited.

§ 130-6. Exceptions; review hearing.

§ 130-7. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct and nuisances — See Ch. 152.

Zoning — See Ch. 310.

ARTICLE I Wild and Exotic Animals [Adopted 10-13-2014 by Ord. No. 2014-02]

§ 130-1. Title.

This article shall be known as the "Borough of Johnsonburg Wild and Exotic Animals Ordinance."

§ 130-2. Findings.

The Borough Council has found and determined that the keeping of wild, and/or exotic animals (including bees) within the Borough of Johnsonburg is detrimental to the public health, safety and welfare of the citizens and property owners of the Borough of Johnsonburg and constitutes a public nuisance (being defined as one or more than one person) because such animals are not suited to the close residential confines of the Borough and are likely to:

- A. Cause undesirable odors on abutting and nearby properties and public ways.
- B. Contaminate such properties and nearby properties and public ways with urine and/or excrement.
- C. Cause unreasonable noise and disturbances to abutting and nearby properties and public ways.
- D. Create a significant roadway hazard and/or damage to or destruction of landscaping and vegetation or if unrestrained or allowed to escape any restraint.

- E. Require the assistance, at the Borough's expense, of police and/or animal control officers, to recapture such animals if unrestrained or allowed to escape.
- F. Cause an increased and unreasonable risk to the public health and safety by running amok and/or attacking persons and/or other domestic animals if unrestrained or allowed to escape.
- G. Cause an increased and unreasonable risk of spreading infectious diseases and/or creating unhealthy conditions.
- H. Receive inappropriate or inhumane care due to the unsuitable environment that the close residential confines of the Borough create for such animals.

§ 130-3. Purpose and intent.

It is therefore declared to be the purpose of and intent of this article to promote the public health, safety and general welfare of the citizens of the Borough of Johnsonburg and to ensure the humane treatment of animals by prohibiting the keeping of wild and/or exotic animals, as herein defined, within the Borough of Johnsonburg.

§ 130-4. Definitions.

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

EXOTIC ANIMAL — Any live monkey, alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, potentially dangerous snake, arachnid, member of the feline species other than domestic cat (*Felis domesticus*), member of the canine species other than domestic dog (*Canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops.¹

WILD ANIMAL — Any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents indigenous to the United States, any hybrid animal that is part wild and captive-bred species of common cage birds.

§ 130-5. Keeping of exotic and/or wild animals (including bees) prohibited.

Except with the prior written approval of Borough Council, as hereafter provided in § 130-6, it shall be a violation of this article for any person to maintain, keep, possess or permit at large, any exotic and/or wild animal (including bees) in the Borough of Johnsonburg.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 130-6. Exceptions; review hearing.

- A. Any person may apply, in writing, to the Borough Manager for permission to keep an animal otherwise prohibited by this article in the Borough.
- B. Upon receipt of such application, the Borough Manager shall convene a review panel, on an ad hoc basis, consisting of the Borough Manager (or a designee from within the Borough Manager's office), the Chief of Police (or the Chief's designee from within the Police Department), two members of Borough Council (decision of which Council members chosen for the panel will be based upon the availability of Council members), and one private citizen permanently residing within the Borough, to hear and decide the request for exemption from this article.
- C. The Borough Manager shall schedule a public hearing to be held not less than three days after receipt of the request and shall provide notice of the date, time, place and purpose of such hearing by posting at the Borough Building at 100 Main Street (as well as on the subject property) and by delivery by hand or United States mail to the residents or property owners of lands abutting the subject property. Where time permits, such notice shall also be published in a newspaper of general circulation in the Borough.
- D. At such hearing, the burden shall be upon the applicant to establish to the satisfaction of a majority of the panel that the animal does not and will not constitute a nuisance or a threat to the public health, safety or welfare of the Borough. Strict rules of evidence shall not apply at such hearing, but the panel may accept any relevant evidence of probative value which reasonable persons might consider in making important decisions in their own private affairs.
- E. The panel shall issue a brief written decision within five days of the hearing, which decision may grant, deny or grant with specified conditions permission to keep such animal.²
- F. The decision of the panel shall be final. Any person thereafter keeping an animal in violation of the panel's decision, or in violation of any conditions imposed by the panel, may be prosecuted for a violation of this article.
- G. Anything in this article to the contrary notwithstanding, any permission granted under this section may be subsequently revoked or modified by a subsequent panel called by the Borough Manager upon a showing that such animal did constitute a nuisance or threat to the public health, safety or welfare or that the conditions of such permission were violated.

§ 130-7. Violations and penalties. ³

Any person who shall violate the provisions of this article shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

not more than \$1,000, plus costs of prosecution, and, in default of payment such fines and costs, to undergo imprisonment for not more than 30 days.

Chapter 138

CONSTRUCTION CODES, UNIFORM

§ 138-1. Election to administer and enforce.

§ 138-2. Adoption and incorporation by reference.

§ 138-3. Administration and enforcement methods.

§ 138-4. Board of Appeals.

§ 138-5. Effect of other regulations.

§ 138-6. Fees.

§ 138-7. Effective date.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 6-14-2004 by Ord. No. 2004-1, approved 6-14-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Floodplain management — See Ch. 180.

Housing standards — See Ch. 200.

Subdivision and land development — See Ch. 265.

Water and sewage service — See Ch. 303.

Zoning — See Ch. 310.

§ 138-1. Election to administer and enforce.

The Borough of Johnsonburg hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101–7210.1103, as amended from time to time, and its regulations.

§ 138-2. Adoption and incorporation by reference.

The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401–405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of the Borough of Johnsonburg.

§ 138-3. Administration and enforcement methods.

Administration and enforcement of the Code within the Borough of Johnsonburg shall be undertaken in any of the following ways as determined by the Borough Council of the Borough of Johnsonburg from time to time by resolution:

- A. By the designation of an employee of the Borough of Johnsonburg to serve as the Municipal Code Official to act on behalf of the Borough of Johnsonburg;
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough of Johnsonburg;
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;

- D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of the Borough of Johnsonburg;
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

§ 138-4. Board of Appeals.

A Board of Appeals shall be established by resolution of the Borough Council in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§ 138-5. Effect of other regulations.

- A. All building code ordinances or portions of ordinances which were adopted by the Borough of Johnsonburg on or before July 1, 1999, and which equal or exceed the requirements of the code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the code, as amended from time to time.
- B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this chapter and whose requirements are less than the minimum requirements of the code are hereby amended to conform with the comparable provisions of the code.
- C. All relevant ordinances, regulations and policies of the Borough of Johnsonburg not governed by the code shall remain in full force and effect.

§ 138-6. Fees.

- A. Fees assessable by the Borough of Johnsonburg for the administration and enforcement undertaken pursuant to this chapter and the code shall be established by the governing body by resolution from time to time.
- B. Building permit fees. No person shall cause or permit any structure excluded by the Pennsylvania Construction Code Act as set forth in 35 P.S. § 7210.102 et seq., and the Uniform Construction Code as set forth in 35 P.S. § 7210.301, to be razed, erected, or altered, without first having obtained a permit therefore. Such permit shall be issued by the Zoning Hearing Officer of the Borough of Johnsonburg upon the filing of an application with him/her, submission of plans and specifications in the case of erection or alteration of any building, structure or improvement, and payment of a fee of \$10.
[Added 12-15-2009 by Ord. No. 2009-07]

§ 138-7. Effective date.

This chapter shall be effective on July 5, 2004.

Chapter 145

CURFEW

§ 145-1. Definitions.

§ 145-5. Violations and penalties.

§ 145-2. Curfew established; exemptions.

§ 145-6. Determination of age.

§ 145-3. Parental responsibility.

§ 145-7. Construal of provisions.

§ 145-4. Responsibility of operators of establishments.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 12-30-1976 by Ord. No. 77-619, approved 12-30-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct and nuisances — See Ch. 152.

§ 145-1. Definitions.

As used in this chapter, the following terms or words shall have the meanings indicated:

ESTABLISHMENT — Any privately owned place of business carried on for a profit or any place of amusement or entertainment to which the public is invited.

OPERATOR — Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. Whenever used in any clause prescribing a penalty, the term "operator," as applied to associations or partnerships, shall include the members or partners thereof and, as applied to corporations, shall include the officers thereof.

PARENT — Any natural parent of a minor, any guardian or any adult person 18 years of age or over responsible for the care and custody of a minor.

PUBLIC PLACE — Any public street, highway, road, alley, park playground, public building or vacant lot.

REMAIN — To loiter, idle, wander, stroll or play in or upon.

§ 145-2. Curfew established; exemptions.

- A. It shall be unlawful for any person who has not attained the 18th anniversary of the date of his or her birth to remain in or upon any public place or any establishment in the Borough of Johnsonburg between the hours of 11:00 p.m. prevailing time and 6:00 a.m. prevailing time of the following day on any day of the week, except Friday and Saturday, when it shall be unlawful for any such person to remain in or upon any public place or any establishment in the Borough of Johnsonburg between the hours of 12:00 midnight

prevailing time and 6:00 a.m. prevailing time of the following day. **[Amended 3-24-1977 by Ord. No. 77-622, approved 3-24-1977]**

- B. The provisions of this section shall not apply to any person under 18 years of age accompanied by a parent or upon an errand or other legitimate business directed by such persons or parent or to any person who is engaged in gainful, lawful employment during the curfew hours, provided that said person under 18 years of age carries identification and evidence in writing to this effect.
- C. Each violation of the provisions of this section shall constitute a separate offense.

§ 145-3. Parental responsibility.

- A. It shall be unlawful for any parent to knowingly permit any minor to remain in or upon any public place or establishment between the hours specified in § 145-2A herein.
- B. The provisions of this section shall not apply to any parent who accompanies a minor, nor to a parent who directs a minor upon an errand or other legitimate business nor to any parent of a minor engaged in gainful employment during curfew hours, provided that the minor carries written identification and written evidence to that effect.
- C. Each violation of the provisions of this section shall constitute a separate offense.

§ 145-4. Responsibility of operators of establishments.

- A. It shall be unlawful for any operator of an establishment or his agents or employees knowingly to permit any minor to remain upon the premises of said establishment during the hours restricted in § 145-2 herein.
- B. Each violation of the provisions of this section shall constitute a separate offense.

§ 145-5. Violations and penalties. [Amended 7-13-2009 by Ord. No. 2009-03]

- A. Any police officer who finds a minor violating the provisions of this chapter shall apprehend said minor and shall notify the person or persons responsible for the minor to take said minor to his place of residence.
- B. Any person who shall violate any of the provisions of this chapter shall be arrested with or without a warrant and, upon conviction thereof before any Magisterial District Judge be subject to a fine of not more than \$1,000 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than 30 days.¹
- C. Any operator of an establishment and any agents or employees of any operator who shall violate the provisions of this chapter shall, upon conviction thereof before any Magisterial District Judge, be sentenced to pay a fine of not more than \$1,000, together

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

with costs of prosecution and, in default of payment of such fine and cost, to imprisonment for not more than 30 days.²

§ 145-6. Determination of age.

The police officers of the Borough, in taking minors into custody, shall use their discretion in determining age, and in doubtful cases may require positive proof, and until such proof is furnished, the officer's judgment shall prevail.

§ 145-7. Construal of provisions.

It is declared to be the intention of this chapter that its provisions shall be liberally construed so as to curb or reduce juvenile delinquency.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 152

DISORDERLY CONDUCT AND NUISANCES

§ 152-1. Definitions.

§ 152-2. Nuisances enumerated.

§ 152-3. Specific acts of disorderly conduct enumerated.

§ 152-4. Violations and penalties.

§ 152-5. Notice to abate; abatement by Borough; costs.

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 8-11-1970 by Ord. No. 566, approved 8-24-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Amusements — See Ch. 124.

Animals — See Ch. 130.

Grass and weeds — See Ch. 187.

Solid waste — See Ch. 248.

Housing standards — See Ch. 200.

Streets and sidewalks — See Ch. 259.

Vehicles and traffic — See Ch. 292.

§ 152-1. Definitions.

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

BOROUGH — Johnsonburg Borough, Elk County, Pennsylvania.

DISORDERLY CONDUCT — Any act, word or conduct causing or tending to cause a disturbance of the peace and good order of the Borough, or causing or tending to cause any danger, discomfort or annoyance to the inhabitants of the Borough or users of the Borough thoroughfare; or any loud, boisterous, excessive, unseemly or unnecessary noise or disturbance, fighting or quarreling or inciting others to fight or quarrel; or making use publicly of obscene or indecent language; being visibly intoxicated; or loafing, loitering or prowling on private or public property or on any of the public streets or roads or public grounds in the Borough to the annoyance of peaceable residents nearby traveling or residing on any street or road or being lawfully on any of the public grounds of the Borough, whereby the public peace is broken or disturbed or the traveling public is annoyed.

PERSON — Every natural person, association, partnership or corporation. Whenever used in any clause prescribing or imposing a fine, or penalty of imprisonment in default thereof, the term, as applied to association, shall mean any partner thereof, and as applied to corporations shall mean the president, vice president, treasurer or secretary thereof.

PUBLIC NUISANCE — A thing, occurrence, activity, condition or use of property which shall continue for such a length of time as to substantially annoy, injure, adversely affect or endanger the comfort, health, morals, safety or welfare of the public or a number of persons; or unlawfully and substantially interfere with, obstruct or render dangerous for the use or passage of any street, road, sidewalk, river or public way or place; or substantially interfere

with the reasonable use and enjoyment of public or private property by other persons in the community; or constitute a violation of any of the specific prohibited acts or activities hereinafter set forth, or any specifically defined as a nuisance in the Borough Code.¹

§ 152-2. Nuisances enumerated.

It shall be unlawful for any person, either directly or indirectly or by its agents, to do, authorize, aid or abet the doing of any of the following described acts, the regulation or restriction of which is intended to promote the general safety, health, comfort and convenience of the Borough, and any person doing so shall be deemed guilty of a nuisance:

- A. To injure or destroy any property, either owned by the Borough or by any other persons, in or along any public street, highway or place of the Borough.
- B. To start, or cause to be started, or permit to be started, any bonfire or fire for the purpose of burning paper, debris, garbage, rubbish, straw, shavings or leaves or any other substance within the limits of the Borough.
- C. To knowingly make false reports to the Borough police, or intentionally misleading calls or requests for service of the Police Department or Fire Department.
- D. To cast any paper boxes or store wastes, earth, brick, stone, coal, wood, ashes, lime, shavings, rubbish or any substance of any kind, except for the purpose of immediate loading or removing, on any public street, highway or sidewalk within the Borough.
- E. To throw, drop or place, or cause to be thrown, dropped or placed, upon any of the public streets, highways, sidewalks or public places within the Borough, or upon any porch, step or yard of any house or store along any of the public streets or highways within the Borough, any posters, circulars, bills, handbills or other advertising matter of any kind or description whatever.
- F. To throw, drop or place, or cause to be thrown, dropped or placed, upon any of the streets, highways, sidewalks or other public places within the Borough, any paper, paper boxes or literature of like kind or nature, or waste matter of any kind whatsoever.
- G. To nail, tack, hang or otherwise append any sign, notice or advertisement, other than may be prescribed by law, to or on any tree, post or pole of any description within the Borough, except on private property, and then only by permission of the owner.
- H. To drive, or cause to be driven, any cart or wagon or motor vehicle containing garbage, earth, rubbish, coal or any other material of like character through any public street or highway in the Borough, unless such cart, wagon or motor vehicle has a good and sufficient tailboard and body, sufficiently tight and closed at the sides and bottom to prevent the contents from dropping off the vehicle, and a cover to eliminate odor or prevent the contents from blowing off or falling off the vehicle.

1. Editor's Note: See 8 Pa.C.S.A. § 101 et seq.

- I. To ride horseback upon sidewalks or sidewalk areas, school grounds or recreation areas, or to gallop, canter or trot a horse upon streets in built-up areas, but may walk a horse only upon streets in the built-up areas.
- J. To blow horns of motor vehicles where such horn-blowing is unnecessary and only serves to annoy residents.
- K. To use the public streets as a proving ground, amusement thoroughfare or for other objectionable practices by operators of motor vehicles.
- L. To permit the growing and accumulation of grass, weeds, plants and shrubbery in any sidewalk area.
- M. To obstruct the sidewalk, pavement, street or highways or to participate in unlawful gatherings, or to vex, hinder or annoy other persons, whereby the public peace is broken or the public annoyed.
- N. To lounge, loiter or loaf upon the street corners, curbs or sidewalks, in front of or at the doors of any private residence, store, shop or business place, in or about churches or in the hallways, alleyways, entrances, exits or passageways of public buildings.
- O. To beg from door to door.
- P. To maintain any cellar, erection, building or part thereof in an unsafe, unsanitary or overcrowded condition or manner, or to fail to provide the same with adequate means of ingress or egress, or to fail to sufficiently ventilate, sewer, drain, clean, light or support the same either by its own construction or connection, and a property owner shall be equally liable with the tenant for the violation of this subsection.
- Q. To cause or allow the loud playing of radios, television sets, amplifiers and sound devices so as to be heard beyond the premises.
- R. Conduct and activities of dogs and conditions constituting violations and penalties.
[Amended 11-14-1995 by Ord. No. 95-676, approved 11-14-1995]

(1) The following activities or conditions are hereby declared to be unlawful:

- (a) No owner of any dog, abused and/or neglected, shall allow or permit such animals to make loud or harsh noises, on a continuous basis, to the extent that it shall disturb or interfere with the peace, quiet, rest or sleep of other persons. Each day's violation of the provisions of this subsection shall constitute a separate offense.
- (b) No owner of any dog shall allow such animal to defecate upon any public sidewalk, walkway or property of any other person. Should this occur, the owner shall be responsible for the pickup and proper disposal of any such matter on any public sidewalk, walkway or property of any other person. Each day's violation of the provisions of this subsection shall constitute a separate offense.

(2) Any person who violates or fails to comply with Subsection R(1) of this section shall, in a summary proceeding before a Magisterial District Judge and upon

conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days.²

- S. To operate or cause or allow to be operated any gasoline-powered lawn mower or chain saw, or to perform or cause or allow to be performed any outside construction activity after 10:00 p.m. or on any day before 8:00 a.m. and on Sunday before 10:00 a.m.

§ 152-3. Specific acts of disorderly conduct enumerated.

In addition to the foregoing provisions, the following specific acts shall be defined as disorderly conduct, and punishable as such:

- A. To drive any wagon, cart, automobile or other vehicle, to ride any bicycle or motorcycle, go-cart or minibike or to coast or sled-ride upon any sidewalk within the Borough, provided that this subsection shall not be construed to prohibit the use of an entrance from the public highway to private property.
- B. To operate any motor vehicle, motorcycle, motorbike, scooter, go-cart or minibike which is not adequately and properly equipped with mufflers in operating condition, or to operate the same in a reckless or dangerous manner.
- C. Operating any unlicensed vehicle, including but not limited to go-carts, minibikes, ATVs or UTVs on any public street, alleyway or school grounds.³
- D. Operating model airplanes equipped with gasoline engines on a public street or school ground.
- E. Parking of automobiles or other vehicles on streets or public property or on private property not owned by the occupants of the vehicle, for the purpose of engaging in immoral acts or petting.
- F. To indecently expose his or her person, bathe naked in the public view or ease himself or herself in the public view.
- G. To use indecent, vile or profane language upon the public streets or in public places.⁴
- H. The distribution, sale or exhibition of obscene, indecent or immoral pictures, films, literature or pamphlets, or engaging in any obscene, indecent or immoral act or show.
- I. Throwing trash or rubbish upon private property.
- J. Resisting or interfering with the duty of police officers or Fire Police or firemen in the performance of their duties.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Original Subsection H, regarding molesting, annoying or insulting of a female person by a male person, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- K. The conduct of gambling or the permission of the owner or occupant of premises for others to conduct gambling on the premises, or permitting gambling devices, materials or slot machines on the premises or person of any person found in a place where gambling is conducted.
- L. To be in violation of any curfew or legal restriction on public assembly hereinafter established by ordinance or resolution or decree by the Mayor or Borough Council.
- M. To willfully make or cause to be made any loud, boisterous or unseemly noise, so as to disturb or annoy the peaceful residents of the Borough, at, near or upon any street, lane, alley, park, or in any public building, public place or business place, or in any means of public conveyance within the Borough, or to be drunk or disorderly at, in or upon such places.
- N. To act in such a manner as to cause riot, panic, violence or general disturbance.
- O. To discharge any gun, pistol or other firearm, fireworks or other explosive without authority.

§ 152-4. Violations and penalties. [Amended 9-15-1970 by Ord. No. 568, approved 9-15-1970; 2-12-1980 by Ord. No. 80-636, approved 2-12-1980^s]

Any person who shall violate the provisions of this chapter shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days.

§ 152-5. Notice to abate; abatement by Borough; costs. ⁶

In addition to any penalties or fines which may be imposed above, the Borough may give notice to the owner or occupant to abate or eliminate the nuisance, objectionable act or violation of this chapter and, upon failure of the owner or occupant to do so within the time specified in the notice, the Borough may eliminate the nuisance, objectionable act or violation of this chapter or correct the same and collect the cost of the same, together with 15% of said cost. The Borough may file a municipal claim against the premises to recover said costs plus 15% or bring an action in assumpsit.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

