

Chapter 10

Health and Safety

Part 1

Ceding Jurisdiction to Allegheny County Health Department

§10-101. Borough to Become Subject to Jurisdiction of County Health Department

Part 2

Open Wells and Other Excavations

§10-201. Open Wells, Cisterns and Mine Holes to Be Filled In

§10-202. Investigation and Report by Chief of Police

§10-203. Exceptions

§10-204. Penalty for Violation

Part 3

Vegetative Growth

§10-301. Property Owner Responsibilities

Part 4

Open Alcoholic Beverage Containers

§10-401. Definitions

§10-402. Consumption

§10-403. Possession

§10-404. Exceptions

§10-405. Open Doors

§10-406. Penalty

Part 5

Littering

§10-501. Definitions

§10-502. Littering Prohibited

§10-503. Prevention of Scattering

§10-504. Upsetting or Tampering with Receptacles

§10-505. Sidewalks and Alleys to Be Kept Free from Litter

§10-506. Owner to Maintain Private Premises

§10-507. Littering from Vehicles

§10-508. Litter in Parks

§10-509. Handbills

§10-510. Posting Notices Prohibited

§10-511. Construction Sites

§10-512. Enforcement

§10-513. Penalties

Part 6
Nuisance Alarms

- §10-601. Definitions
- §10-602. Unlawful to Cause Nuisance Alarms
- §10-603. Penalties

Part 7
Noise Control

- §10-701. Intent and Purpose
- §10-702. Definitions
- §10-703. Prohibited Acts
- §10-704. Sound Level by Zoning Districts
- §10-705. Exemptions
- §10-706. Variances and Noise Control Board
- §10-707. Enforcement

Part 8
Fireworks

- §10-801. Definition
- §10-802. Manufacture of Fireworks
- §10-803. Permit Required
- §10-804. Permit Applications
- §10-805. Sale and Discharge
- §10-806. Security for Display
- §10-807. Disposal of Unfired Fireworks
- §10-808. Exceptions
- §10-809. Seizure of Fireworks
- §10-810. Violations and Penalties
- §10-811. Legality

Part 1**Ceding Jurisdiction to Allegheny County Health Department****§10-101. Borough to Become Subject to Jurisdiction of County Health Department.**

It is hereby declared to be the intention of the Borough of Carnegie that upon the establishment of the County Department of Health of Allegheny County, the Borough will cease to exercise any of the public health functions invested in it by law and become subject to the jurisdiction of the said County Department of Health.

(Ord. 677, 9/6/1956, §1)

Part 2**Open Wells and Other Excavations****§10-201. Open Wells, Cisterns and Mine Holes to Be Filled In.**

Every person, firm, partnership, or corporation owning land in the Borough of Carnegie upon which exists an open well, an open cistern, or an open mine hole, the opening of which is approximately at the level of the immediately surrounding ground surface, shall fill in with earth such well, cistern, or mine hole with such suitable earth material as will protect all users of the land upon which the well, cistern, or mine hole exists against possible harm or injury which might arise from falling into such well, cistern, or mine hole.

(*Ord. 773, 7/3/1963, §1*)

§10-202. Investigation and Report by Chief of Police.

The Chief of Police of the Borough is hereby charged with the responsibility of investigating the existence of any open wells, cisterns, or mine holes and reporting the existence of the same to the Mayor and the Council of the Borough of Carnegie.

(*Ord. 773, 7/3/1963, §2*)

§10-203. Exceptions.

In the event that an unavoidable hardship is caused any person, firm, partnership, or corporation by compliance with the strict terms of this Part, such person, firm, partnership, or corporation may apply to the Chief of Police for an exception to the terms of this Part. The Chief of Police shall report any such application to the Council of the Borough of Carnegie and the Mayor of the Borough of Carnegie, who may after hearing, if necessary, grant an exception to the terms of this Part under such conditions, however, as will protect the public safety and welfare.

(*Ord. 773, 7/3/1963, §3*)

§10-204. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 773, 7/3/1963, §4; as amended by Ord. 973, 4/14/1981; by Ord. 1047, --/1988; and by Ord. 2384, 12/10/2012*)

Part 3**Vegetative Growth****§10-301. Property Owner Responsibilities.**

1. The person as used in this Part shall mean and include any nature person, partnership, association, firm or corporation. The singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and the neuter.

2. Any person owning real estate in the Borough is hereby prohibited from allowing hedges, trees or other natural growth to become hazards to the free passage of vehicular traffic in the Borough.

3. Any person owning real estate in the Borough is hereby prohibited from permitting debris from any growth or cutting of any trees, hedges or natural growth to remain on said sidewalks longer than the day of said cutting.

4. Any hedge, tree or other natural growth 4 feet in height and which is within 20 feet of any street intersection in the Borough is hereby declared to be a nuisance or dangerous structure which may be prohibited or removed by the Borough or required to be removed by the owner or occupier of such real estate.

5. In default of such removal, the Borough may cause the same to be done and collect the cost thereof total with a penalty of 10 percent of said costs in the manner provided by law for the collection of municipal claims or by action of assumpsit or other legal remedy all in accordance with the provisions of §1202 of the Act of February 1, 1966, P.L. (1965) No. 581, §1202 of the Borough Code.

6. Any cutting or debris from any trimming of any hedge, tree or other natural growth which is not removed by the owner of said property on the same day of said removal may be removed by the Borough in the same manner as previous aforesaid subject to the same remedies as therein set forth.

7. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2384]

8. The Chief of Police or the Enforcement Officer of the Borough is hereby ordered and directed to enforce the provisions of this Part and to report to Council of the Borough any hedge, tree or natural growth which is in violation of this Part for the failure to remove any trimming or cutting which is in violation of this Part.

9. The Code Enforcement Officer, at the request of the Chief of Police, shall give written notice to any owner or occupier of real estate to remove the hedge, tree or natural growth or cutting which is a hazard to vehicular traffic or pedestrian traffic giving such time as is reasonable under the circumstances for the removal of the

hazard.

10. The Code Enforcement Officer at the request of the Chief of Police shall give written notice to any owner or occupier of real estate to remove the hedge, tree or natural growth or cutting which is a hazard to vehicular traffic or pedestrian traffic giving such time as is reasonable under the circumstances for the removal of the hazard.

11. Upon the failure of any owner or occupier of real estate to remove any such hazard to vehicular or pedestrian traffic, Council shall order the proper employees of the Borough to remove the offending hedge, tree or other natural growth. The Borough Solicitor is hereby directed to recover the cost thereof in accordance with the provisions of law.

(Ord. 2160, 10/10/2000, §§2-10; as amended by Ord. 2384, 12/10/2012)

Part 4**Open Alcoholic Beverage Containers****§10-401. Definitions.**

Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

Alcoholic beverages—any alcoholic, spirituous, vinous, fermented, or other alcoholic beverages or combinations of liquors and mixed liquor, a part of which is spiritous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol useable or taxable for beverage purposes which contain more than ½ percent by volume; this term also encompasses beers, lager beers, ale, porter or similar fermented malt beverages containing ½ percent or more of alcohol by volume.

Container—any receptacle, vessel or form of package, tank, vat, cask, barrel, drum, keg, can, bottle or conduit used or capable of use for holding, storing, transferring or shipment of alcohol, liquor, malt or brewed beverages.

Door—a moveable structure for the opening or closing or an entrance to a building or a room, same being of solid construction, capable of diffusing and diminishing loud and raucous conversation; loud and profane utterances; disturbing noises from a television set, record player, radio juke box or other electrical transcription device. A screened or louvered door shall not fall within this definition.

Open—with respect to the prohibition against the possession of any alcoholic beverages while upon a public way, this term shall mean that the container in which the alcoholic beverage was purchased has been unsealed. With respect to the prohibition against the standing open or ajar of any door of any retail distributor, this term shall mean not completely closed.

Retail distributors—any premises upon which any person is licensed to engage in the retail sale of malt, brewed or alcoholic beverages for consumption on the premises of such licensee, with the privilege of selling malt, brewed or alcoholic beverages in quantities not in excess of 144 fluid ounces in a single sale to one person, to be carried from the premises by the purchaser thereof.

(Ord. 1020, 6/10/1986, §1)

§10-402. Consumption.

It shall be unlawful for any person to consume any alcoholic beverages in any quantity upon any street, avenue, alley, sidewalk, stairway, thoroughfare, or other public property within the Borough of Carnegie, or any place to which members of the public have access, invitees or licensees, or private land or place without the consent of the owner or person in control thereof.

(Ord. 1020, 6/10/1986, §2)

§10-403. Possession.

It shall be unlawful for any person to possess any container of alcoholic beverages, whether wrapped or unwrapped, which has been opened or on which the seal has been broken in any manner on any public street, avenue, alley, thoroughfare or other public property within the Borough of Carnegie, or upon any way upon which the public has right of access, or any place to which the members of the public have access as invitees or licensees, or private land or place without consent of the owner or person in control thereof.

(*Ord. 1020, 6/10/1986, §3*)

§10-404. Exceptions.

Provided, however, that the provisions of §§10-402 and 10-403 shall not apply to interior portions of any private dwelling, habitat or building, nor to the consumption or possession by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content as set forth in §10-401 hereof; and, provided further, that the provisions of §§10-402 and 10-403 shall not apply to premises duly licensed by the Pennsylvania Liquor Control Board and to persons then and there patrons of said licensee.

(*Ord. 1020, 6/10/1986, §4*)

§10-405. Open Doors.

It shall be unlawful for any owner, proprietor, employee or agent of any retail distributor of alcoholic beverages, of any commercial house, tavern, restaurant, or other places of business engaged in the retail sale of alcoholic, brewed or malt beverages to permit or allow any door of entry or exit to stand open or ajar during business hours.

(*Ord. 1020, 6/10/1986, §5*)

§10-406. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 1020, 6/10/1986, §6; as amended by Ord. 1047, --/1988; and by Ord. 2384, 12/10/2012*)

Part 5**Littering****§10-501. Definitions.**

For the purpose of this Part, the following terms, phrases, words, and their derivations shall have the meaning given herein.

Authorized private receptacle—is a container of watertight construction with a tight fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

Construction sites—any private or public property upon which repairs to existing buildings, construction of new buildings, or demolition of existing structures is taking place.

Handbill—any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by United States mail, including but not limited to those which:

- A. Advertise for sale any merchandise, product, commodity, or thing.
- B. Direct attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales.
- C. Direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

Litter—garbage, refuse, and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

Private premises—all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox and other structure appurtenant thereto.

Public place—any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses or fountains and any and all public parks, squares, spaces, grounds, and buildings.

Public receptacles—any receptacles provided by or authorized by the Borough.

Vehicle—every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

(Ord. 1010, 1/8/1984, §1)

§10-502. Littering Prohibited.

No person shall deposit any litter within the Borough except in public receptacles, in authorized private receptacles for collection or in any duly licensed disposal facility.
(*Ord. 1010, 1/8/1984, §2*)

§10-503. Prevention of Scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.
(*Ord. 1010, 1/8/1984, §3*)

§10-504. Upsetting or Tampering with Receptacles.

No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.
(*Ord. 1010, 1/8/1984, §4*)

§10-505. Sidewalks and Alleys to Be Kept Free from Litter.

Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.
(*Ord. 1010, 1/8/1984, §5*)

§10-506. Owner to Maintain Private Premises.

The owner or person in control of any private premises shall at all times maintain the premises free of litter.
(*Ord. 1010, 1/8/1984, §6*)

§10-507. Littering from Vehicles.

1. No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.

2. No person shall drive or move any loaded or partly loaded truck or other vehicle within the Borough unless such vehicle is so constructed or loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the Borough, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

(*Ord. 1010, 1/8/1984, §7*)

§10-508. Litter in Parks.

No person shall deposit litter in any park within the Borough except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in

a lawful manner.

(Ord. 1010, 1/8/1984, §8)

§10-509. Handbills.

1. *Public Places.* No person shall deposit or sell any handbill in or upon any public place provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

2. *Private Premises.* No person shall deposit or unlawfully distribute any handbill in or upon private premises, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes may not be so used when prohibited by Federal postal law or regulations.

3. *Exemption for Newspapers and Political Literature.* The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

4. *Placing Handbills on Vehicles.* No person shall deposit any handbills in or upon any vehicle unless the occupant of a vehicle is willing to accept it.

5. *Cleanup.* It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

(Ord. 1010, 1/8/1984, §9)

§10-510. Posting Notices Prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person except the owner or tenant shall post any such notice of private property, without the permission of the owner or tenant.

(Ord. 1010, 1/8/1984, §10)

§10-511. Construction Sites.

1. Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

2. Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

(Ord. 1010, 1/8/1984, §11)

§10-512. Enforcement.

The Carnegie Borough Bureau of Police and any of its designated representatives shall be charged with the enforcement of the provisions of this Part.

(*Ord. 1010, 1/8/1984, §12*)

§10-513. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 1010, 1/8/1984, §13; as amended by Ord. 1047, --/1988; and by Ord. 2384, 12/10/2012*)

Part 6**Nuisance Alarms****§10-601. Definitions.**

For purposes of this Part, the following terms are defined as follows:

Alarm signal—a communication, either direct or through the action of a person contacting the Borough regarding an alarm activation, to the Police and/or Volunteer Fire Departments of the Borough of Carnegie, indicating that a crime, fire or other emergency situation warranting immediate action by said departments has occurred or is occurring.

Nuisance alarm—any alarm signal that alerts the Borough Police and/or Volunteer Fire Departments, either directly or through a personal contact, which upon investigation is not the result of an actual or threatened emergency requiring immediate response by said departments. Nuisance alarms include:

- A. Negligently or accidentally activated signals.
- B. Signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment.
- C. Signals which are purposely activated to summon emergency services in non-emergency situations.
- D. Alarm signals for which the actual cause is not determined.
- E. Alarm signals occurring within the first 3 months of the initial installation of a system, due to system malfunction, shall not be considered “nuisance alarms”; provided, that the Borough is presented with sufficient evidence to verify that the causes of these alarms are being investigated and corrective action is being taken.

(Ord. 1091, 5/11/1992, §1)

§10-602. Unlawful to Cause Nuisance Alarms.

It is hereby unlawful for any person and/or other entity to purposely or otherwise cause a nuisance alarm to be activated and/or communicated to the proper authority within the Borough of Carnegie. The property owner or resident from whose property the alarm signal originates, and/or other person or entity responsible for the communication of the alarm signal to the Borough, shall be held responsible for any communication of nuisance alarms as defined herein.

(Ord. 1091, 5/11/1992, §2)

§10-603. Penalties.

1. The person and/or other entity found to be responsible for the communication of nuisance alarms to the Borough, within a 90-day period, shall be assessed a fine by the Borough as follows:

- A. First nuisance alarm—no fine.
- B. Second nuisance alarm—\$25 fine.
- C. Third nuisance alarm—\$75 fine.

D. Fourth nuisance alarm—\$150 fine.

E. Fifth nuisance alarm—\$300 fine.

2. *Notices.* All notices of citation from the Borough regarding the communication of any nuisance alarm shall be given, in writing, and delivered via regular U.S. mail to the alarm company servicing and monitoring said alarm and it shall be conclusively presumed that said company notified their client be it residential, commercial or industrial of said violation of this Part. In the event that there is no company servicing or monitoring said alarm system, then said notice shall be sent in the manner as designated herein to the individual or entity held responsible. It shall upon mailing of this notice also conclusively create the presumption of receipt of notice. For the sixth and any subsequent nuisance alarm, in any 90-day period, the Borough may assess an additional fine of \$300 for each day after the date of such nuisance alarm until the person or other entity held responsible provides satisfactory evidence of the suspected cause and attempted repairs. Satisfactory evidence shall state the suspected causes, attempted remedies and results, if any thereof. [*Ord. 2032*]

(*Ord. 1091, 5/11/1992, §3; as amended by Ord. 2032, 10/10/1994, §1*)

Part 7**Noise Control****§10-701. Intent and Purpose.**

The Council of the Borough of Carnegie, finding that excessive levels of sound are detrimental to the physical, mental and social well being of the people as well as their comfort, living conditions, general welfare and safety, and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the Borough of Carnegie.

(Ord. 2094, 9/9/1997, §1)

§10-702. Definitions.

The following words, terms and phrases when used in this Part shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. All terminology used in this Part not defined below shall be in conformance with the applicable publications of the American National Standards Institute (ANSI S1.1 - 1960 [R1971], and its revisions) or its successor body.

A-weighted sound level—the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A).

Ambient noise—the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

Construction operation—the erection, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, grading and regulation of lots in connection therewith.

Decibel dB—a unit for measuring the sound pressure level, equal to 20 times the logarithm to the 10 of the ratio of pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Emergency—any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, threatened or caused by an emergency.

Emergency work—any work performed for the purpose of preventing or alleviating the physical trauma or property damage.

Impulsive sound—sound of short duration, usually less than 1 second, with an abrupt onset and a rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

Muffler or sound dissipative device—a device designed or used for decreasing or abating the level of sound escaping from an engine of machinery system.

Noise—any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbances—any sound which (1) endangers or injures the safety or health of humans or animals; or (2) annoys or disturbs a reasonable person of

normal sensitivities; or (3) endangers or injures personal or real property; or (4) is in excess of the sound levels by zoning districts established in §10-704.1.

Person—any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, person includes the individual members, partners, officer and managers, or any of them, or partnerships and associations and, as to corporations, the officers and managers thereof or any of them.

Powered model vehicle—any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.

Public right-of-way—any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

Public space—any real property or structures thereon which are owned or controlled by a governmental entity.

Pure tone—any sound which can be heard as a single pitch or a set of single pitches. For the purpose of this Part, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

Property line (boundary)—an imaginary line drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons; a demarcation or a line of separation of properties and, also, for any two or more buildings sharing common grounds, the line drawn midway between any two said buildings. All areas devoted to public right-of-way shall be deemed to be across the property lines. For the purpose of this Part, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.

Real property—all land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public right-of-way.

Sound—an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium or the superposition of such propagated oscillation which evokes an auditory sensation. The description of sound may include any characteristics of such sound including duration, intensity and frequency.

Sound level—the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter—an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and any applicable weighting

network used to measure sound pressure levels which meets or exceeds the requirements for a Type I or Type II sound level meter as specified in ANSI Specification S1.4-1971. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

Zoning districts—the land use districts established by the Zoning Ordinance of the Borough of Carnegie, [Chapter 27] and all subsequent amendments.

(Ord. 2094, 9/9/1997, §2)

§10-703. Prohibited Acts.

1. *Noise Disturbance Prohibited.* No person shall make, continue or cause to be made or continued any noise disturbance, nor shall any person suffer, allow or permit any noise disturbance to be made or continued from or at any property, whether real or personal, that is subject to such person's right to control.

2. *Specific Prohibitions.* The following acts and the causing thereof are declared to be noise disturbance and therefore in violation of this Part:

A. *Radios, Television, Musical Instruments and Similar Devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile, radio, automobile stereo or high fidelity equipment or similar device which produces, reproduces or amplifies sound:

(1) At any time in such manner as to cause a noise disturbance across a property line (boundary) or between the hours of 10 p.m. and 8 a.m. as to be plainly audible across the property line (boundary).

(2) In such a manner as to create a noise disturbance across a property line (boundary) or at 50 feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way.

(3) In such manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger or a common carrier.

B. *Yelling and Shouting, Etc.* Engaging in loud or raucous yelling, shouting, hooting, whistling or singing (1) on the public street between the hours of 10 p.m. and 8 a.m.; or (2) at any time or place in such a manner as to create a noise disturbance.

C. *Construction.* Operating or permitting the operation of any tool or equipment used in construction operation, drilling or demolition work:

(1) Between the hours of 9 p.m. and 7 a.m. the following day on weekdays and Saturdays and at any time on Sundays or legal holidays, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work.

(2) At any other time such that the sound level at or across the real property line (boundary) exceeds 85 dB(A) for a period of 1 hour.

(3) This subsection shall not apply to the use of domestic power tools subject to paragraph .D.

D. *Domestic Power Tools.* Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 9:00 p.m. and 7 a.m. the following day so as to cause a noise disturbance across a residential property line (boundary).

E. *Loading or Unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10 p.m. and 6 a.m. the following day in such a manner as to cause a noise disturbance across a residential property line (boundary). This subsection shall not apply to municipal or utility services in or about the public right-of-way.

F. *Animal and Birds.* Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks or makes other sound continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for ½ hour or more to the disturbance of any person at any time of the day or night regardless of whether the animal or bird is situated in or upon private property; provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.

G. *Powered Model Vehicles.* Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential property line (boundary) between the hours of 9 p.m. and 8 a.m.

H. *Tampering.* The following acts or the causing thereof are prohibited:

(1) The removal or rendering inoperative by any person other than for the purposes of maintenance, repair or replacement of any muffler or sound dissipative device or element of design or noise label of any project.

(2) The intentional moving or rendering inaccurate or inoperative any sound monitoring instrument or device positioned by or for the Bureau of Police, provided such device or the immediate area is clearly labeled in accordance with noise control regulations, to warn of potential illegality.

(3) The use of a product which has had a muffler or sound dissipative device or element of design or noise label removed or rendered inoperative, with knowledge such action has occurred.

I. *Vehicle, Motorboat or Aircraft Repairs and Testing.* Repairing, rebuilding or testing any motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property line (boundary).

3. *Motor Vehicle Prohibitions.*

A. *Motor Vehicle and Motorcycles on Public Rights-of-Way.* No person shall operate or cause to be operated a public or private vehicle or motorcycle, or any equipment attached to such vehicle, on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, or any equipment attached to such vehicle, exceeds the level set forth in 67 Pa.Code, Chapter 157, of the Pennsylvania Department of Transportation regulations (established sound levels).

B. *Standing Motor Vehicles.* No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such vehicle for a period longer than 15 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, anywhere within one hundred 150 feet of any residence, in such a manner as to cause a noise disturbance across a residential property line (boundary).

C. *Unnecessary Horn Blowing.* No person shall at any time sound the horn or other warning device of a vehicle, except when absolutely necessary as a warning while actually driving such vehicle.

D. *Sound Trucks.* No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle at any time in such a manner as to exceed the maximum permissible motor vehicle noise emission as set forth in subsection .3.A, above.

4. *Prima Facie Violation.* The noise from any of the aforesaid prohibited acts that disturbs two or more residents who are in general agreement as to the times and duration of the noise and who reside in separate residences (including apartments and condominiums) located across a property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance. (Ord. 2094, 9/9/1997, §3)

§10-704. Sound Level by Zoning Districts.

1. *Maximum Permissible Sound Levels by Zoning Districts.* No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth in the zoning designations category in Table 10-7-I when measured at or across the property line (boundary) from the noise source. Any sound source that produces sound in excess of those levels shall constitute a noise disturbance.

Table 10-7-I. Sound Levels by Zoning Districts		
Zoning District of the Property on which the Source of the Noise is Located	Sound Level Limit, dB(A)	
	8 a.m.–9 p.m.	9 p.m.–8 a.m.
Residential Zoning Districts: R-1, R-2, R-3 and R-4	57	52
Commercial Zoning Districts: C-1 and C-2 C-3	67 57	62 62
Manufacturing Zoning Districts: M-1	77	77

2. *When Exceeded.* The sound level limits set forth in Table 10-7-I shall be exceeded when any one or more of the following occur:

A. The sound at any one point in time exceeds any of the established zone limits in Table 10-7-I by a measured sound level of 15 dB(A).

B. The sound exceeds any of the established zone limits in Table 10-7-I by a

measured sound level of 10 dB(A) for a cumulative total of 1 minute or more out of any 10 minute period.

C. The sound exceeds, except in the Manufacturing District, any of the established zone limits in Table 10-7-I by a measured sound level of 3 dB(A) continually for a period of five minutes or a total of 5 minutes out of any 10 minute period.

3. *Ambient Sound.* In the event the background ambient sound levels in an area of suspected noise disturbance exceed the levels set forth in Table 10-7-I, the sound level of the intrusive sound source shall be measured with the ambient sound level being substituted as the Table 10-7-I sound level limit.

4. *Where Measured.* For the purposes of this Section, sound shall be measured at or beyond the property line (boundary) of the property on which the noise source is located.

5. *Pure Tone and Impulsive Sound.* For any source of sound which emits a pure tone or impulsive sound, the limits set forth in Table 10-7-I shall be reduced by 5 dB(A).

6. *Adjustment for Nonconforming Uses.* Any noise which occurs on property which, according to the Borough of Carnegie Zoning Ordinance [Chapter 27], is being used in a legally nonconforming manner, and which noise relates to said use, shall be judged as if the property bore a zoning designation under which the use would be conforming.

7. *Measuring Instruments.* All sound measurements shall be made on a sound level meter calibrated in the manner required by the manufacturer's specifications.

8. *Exemptions from Sound Level Limits.* The provisions of this Section shall not apply to:

A. Activities covered by the following: §10-703.2.C (Construction) and .2.D (Domestic Power Tools), or any emergency signaling device used because of an emergency.

B. Interstate railway locomotives and cars.

C. Motor vehicles.

(Ord. 2094, 9/9/1997, §4)

§10-705. Exemptions.

The following sounds are exempted from the provisions of this Part:

A. *Amplified Announcements.* Electronically amplified announcements at athletic events.

B. *Blasting.* Blasting under permit by the Borough of Carnegie. Such blasting may occur only between the hours of 9 a.m. and 4 p.m., Monday through Friday, unless specifically authorized by permit.

C. *Concerts, Etc.* Band concerts, block parties, church carnivals or other performances or other similar activities publicly or privately sponsored and presented in any public or private space outdoors shall be exempt from the provisions of this Part provided:

(1) Such activities do not produce sound 15 dB(A) in excess of the sound levels set forth in Table 10-7-I of §10-704 of this Part.

(2) Such activities do not occur between the hours of 10 p.m. and 8 a.m. the following day.

D. *Emergency Work.* Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

E. *Municipal and Utility Services.* Sounds resulting from repair or replacement of any municipal or utility installation in or about the public right-of-way.

F. *School and Public Activities.* Sounds not electronically amplified created by organized school related programs, activities, athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.

G. *Warning Devices.* Sounds made by warning devices operating continuously for 3 minutes or less, except in the event of an actual emergency, the time limitation shall not apply.

(Ord. 2094, 9/9/1997, §5)

§10-706. Variances and Noise Control Board.

1. *Variances.*

A. *Authority.* The Noise Control Board shall [have] the authority to grant variances, consistent with the provisions of this Part, after public hearing, upon application of any person who owns, controls or operates any sound source which does not comply with the provisions or standards of this Part.

B. *Application.* The application shall state the standard or provision from which the variance is being sought, the period of time and reasons for which the variance is sought, shall contain information which demonstrates that bringing the sources of sound or activity for which the variance is sought into compliance with this Part would constitute an unreasonable hardship on the applicant and shall contain any other supporting information which may reasonably be required.

C. *Public Notification.* Public notice of an application and date, time and place of the public hearing to be held thereon for a variance shall be given by publishing notice thereof in a newspaper of general circulation in the Borough of Carnegie at least once not less than 3 days prior to the scheduled public [hearing] and by, if practicable, conspicuously posting the premises that is the source of the sound for which the variance is sought.

D. *Hearing.* The Noise Control Board shall hold a public hearing to decide variance applications presented to it. Any person who claims to be affected by allowance of the variance may become a party to the hearing.

E. *Review Standards.* In determining whether to grant or deny the application, the Noise Control Board shall consider, at a minimum, the following conditions:

- (1) The physical characteristics of the emitted sound.
- (2) The times and duration of the emitted sound.
- (3) The geography, zone and population density of the affected areas.
- (4) Whether the public health and safety is endangered.

(5) Whether the sound source predates the receiver(s).

(6) Whether compliance with the standard(s) from which the variance is sought would produce hardship without equal or greater benefit to the public.

F. *Decision.* The Noise Control Board shall render a written decision in granting or denying the application for variance and, if denied, shall state the reasons therefor. The Board's decision shall be made available to the applicant and any other person who requests it in writing. In granting a variance, the hearing board may attach reasonable conditions including, but not limited to, placing a time limit on the permitted activity and/or establishing a time schedule within which the source of sound or activity for which the variance was sought must be brought into compliance with this Part. Where the grant of a variance is conditioned, the variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of this Part regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of up to 1 year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Noise Control Board.

G. *Appeals.* Appeal from an adverse decision of the Noise Control Board shall be made to the Court of Common Pleas of Allegheny County.

2. *Special Variances.* The Chief of Police or his designee may, upon application and guided by the standards for review set forth in subsection .1.E, above, grant special variances for infrequent events or activities which do not exceed 24 hours in duration. Such special variance are not renewable, except by action of the Noise Control Board pursuant to subsection .1.F, above. The Noise Control Board shall hear and decide appeals from the denial of a special variance, the practice and procedure thereon to be in accordance with subsections .1.A through .1.F.

3. *Noise Control Board.* The Noise Control Board for the purposes of this Part shall be the Zoning Hearing Board of the Borough of Carnegie, which Board shall have the full authority to carry out the duties of the Noise Control Board, as set forth in this Part. All applications to the Board shall be filed through the Building Inspector/Zoning Officer and shall be accompanied by an application fee in an amount as established, from time to time, by resolution of Borough Council. The hearing shall be held not more than 30 days following the filing of the application and the decision thereon rendered within 45 days of the last hearing in the case before the Board. [Ord. 2384]

(Ord. 2094, 9/9/1997, §6; as amended by Ord. 2384, 12/10/2012)

§10-707. Enforcement.

1. *Authority for Enforcement.* This Part shall be enforced by the Carnegie Borough Police Department. In addition, Animal Control shall be authorized to enforce §10-703.2.F (Animals and Birds) of this Part and in so doing shall have the powers of a police officer, except the power of arrest.

2. *Penalties.*

A. Any person violating any provision of this Part shall, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules

of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [*Ord. 2384*]

B. This Part and the foregoing penalties shall not be construed to limit or deny the right of the Borough of Carnegie or any person to such equitable or other remedies as may otherwise be available with or without process of law.

(*Ord. 2094, 9/9/1997, §7; as amended by Ord. 2384, 12/10/2012*)

Part 8**Fireworks****§10-801. Definition.**

Fireworks—any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles or other devices of like construction and any device containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance, except that the term “fireworks” shall not include sparklers, autoflares, paper caps containing not in excess of an average of .25 grain (16.2 mg) of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

(*Ord. 1044, 11/15/1988, §1*)

§10-802. Manufacture of Fireworks.

The manufacture of fireworks is prohibited within the Borough of Carnegie.

(*Ord. 1044, 11/15/1988, §2*)

§10-803. Permit Required.

A permit shall be obtained from the Carnegie Code Enforcement Officer for the display, sale, use, distribution or discharge of fireworks.

(*Ord. 1044, 11/15/1988, §3*)

§10-804. Permit Applications.

Application for permits shall be made in writing at least 30 days in advance of the date of the display or discharge of fireworks. The sale, possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein.

(*Ord. 1044, 11/15/1988, §4*)

§10-805. Sale and Discharge.

It shall be unlawful and it is hereby prohibited for any person, persons, firm, corporation or other entity to store, distribute, sell, offer or expose for sale or have in possession with intent to sell, or use, discharge or cause to be discharged, ignited, fired or otherwise set in action, within the limits of the Borough of Carnegie, any fireworks, except as provided in the rules and regulations issued by the Carnegie Code Enforcement Officer for the granting of permits for supervised public displays of fireworks by the Borough of Carnegie, Fair Associations, and other organizations. Every such display shall be handled by an approved, competent operator. The fireworks shall be arranged, located, discharged or fired in a manner that will not be a hazard to

property or endanger any person.

(*Ord. 1044, 11/15/1988, §5*)

§10-806. Security for Display.

The permittee shall furnish a bond and/or certificates of liability and workmen's compensation insurance in amounts deemed adequate by Borough Council to secure the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts or omissions of the permittee, the permittee's agents, employees or subcontractors.

(*Ord. 1044, 11/15/1988, §6*)

§10-807. Disposal of Unfired Fireworks.

Unfired fireworks and trash, that remain after the display is concluded, shall be immediately disposed of in an approved, safe manner.

(*Ord. 1044, 11/15/1988, §7*)

§10-808. Exceptions.

Sparklers are excepted from this Part with the strict provision that they may not be discharged in any public park, or other public place or public property and that, when discharged, it will be done in the presence and under the supervision of a responsible adult.

(*Ord. 1044, 11/15/1988, §8*)

§10-809. Seizure of Fireworks.

The Carnegie Enforcement Officer shall seize, take, remove or cause to be removed at the expense of the owner, all fireworks offered or exposed for display or sale, stored, held, used or discharged in violation of this Part.

(*Ord. 1044, 11/15/1988, §9*)

§10-810. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 1044, 11/15/1988, §10; as amended by Ord. 1047, --/1988; and by Ord. 2384, 12/10/2012*)

§10-811. Legality.

It is the intent of Borough Council that, if a court of competent jurisdiction holds that any part or Section of this Part is illegal or unconstitutional, that the remaining sections and parts of this Part shall remain in full force and effect.

(*Ord. 1044, 11/15/1988, §11*)