

CHAPTER 10
HEALTH AND SAFETY

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Part 1
No Smoking

§101. Smoking Prohibited in Certain Places. From and after the effective date of this Part, the smoking or carrying of lighted cigars, cigarettes or pipes, and the use of any match, spark, flame, or fire producing device in any retail store in which in the judgment of the Fire Chief, or fire official of the Borough of Emmaus the use of any match, flame, or fire-producing device would be unsafe and create a hazard, is declared to be a nuisance prejudicial to the public welfare, and to the health and safety of persons in said retail stores, and each and all of said acts are hereby prohibited. Provided, that this prohibition shall not include smoking a cigar, pipe, or cigarette, or using a match, spark, flame, or fire-producing device in any restaurant room, in any restroom in any beauty parlor, in any executive room, of any office, particularly designated for smoking in any such retail store; and provided, further, that the terms "Retail Store" shall not be construed to include those places where food or drink is sold only for consumption on the premises. (Ord. 542, 3/1/1976, §1; as amended by Ord. 675, 11/17/1986)

§102. Notification of Restricted Places. The Fire Chief, or fire official shall notify in writing the owner and/or tenants of retail stores in which the use of any match, flame or fire-producing device is deemed unsafe and to create a hazard. (Ord. 542, 3/1/1976, §2; as amended by Ord. 675, 11/17/1986)

§103. Inspection. Any owner and/or tenant of any retail store may contact the Fire Chief, or fire official to have him inspect a subject premises and determine whether the use of any match, flame or fire-producing device would be unsafe and create a hazard on said premises. Such request from the aforementioned owner and/or tenant shall be in writing. (Ord. 542, 3/1/1976, §3; as amended by Ord. 675, 11/17/1986)

§104. Signs. After passage hereof, all retail stores to which the provisions of this Part shall become applicable, forthwith shall post "No Smoking" signs of such size and character as shall be approved by the Fire Chief and fire official, setting forth the fines and penalties as provided for in this Part, in not less than four (4) conspicuous places in each said retail store. (Ord. 542, 3/1/1976, §4; as amended by Ord. 675, 11/17/1986)

§105. Penalties. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Ord. 542, 3/1/1976, §5; as amended by Ord. 675, 11/17/1986)

Part 2
Vermin Control

§201. Short Title. This Part shall be known as and may be cited as the Vermin Control Ordinance of the Borough of Emmaus. (Ord. 489, 11/6/1972, §1)

§202. Definitions and Terms.

ERADICATION - the elimination of rats, mice, cockroaches, and other types of pests of vermin from any building, lot or premises through the use of traps, baiting fumigation, or any other method of extermination approved by the Borough Council and subject to applicable laws relating to poisonous substances and fumigants.

HARBORAGE - any condition which provides shelter or protection for rats, mice, cockroaches, and other types of pests or vermin.

PERSON IN CONTROL - the owner or part owner of a building, lot or premises, whether an individual, partnership or corporation, the agent or occupant of a building, lot or premises, or any person who has the use or custody of the same, or any part thereof, whether an individual, partnership or corporation.

VERMIN - any various small animals or insects including rats, mice, cockroaches, lice, flees, or other pests.

VERMIN-PROOFING - the treatment or shielding with material impervious to gnawing, of all actual or potential openings in the exterior and interior walls, grounds or first floors, roofs, foundations, basements, sidewalk gratings and other places that may be reached by rats, mice, or other similar vermin from the ground or by climbing or burrowing.

(Ord. 489, 11/6/1972, §2)

§203. Purpose. The purpose of this Part is to protect public health by the control and eradication of rats, mice, cockroaches, and other types of pests or vermin; to prescribe methods for the extermination of said vermin; to eliminate harborages for such vermin; and to prohibit conditions conducive to the existence of such vermin in the Borough of Emmaus. (Ord. 489, 11/6/1972, §3)

§204. Elimination of Harborage.

1. All buildings, lots or premises within the corporate limits of the Borough of Emmaus, shall be kept free from any condition conducive to rats, mice, cockroaches, and other types of pests or vermin. The person in control shall not allow the accumulation of automobiles or trucks without current license plates or a current inspection sticker, garbage, refuse, or any material which may afford harborage or provide food for rats, mice, cockroaches, and other types of pests or vermin.

2. Whenever conditions inside or under unoccupied buildings provide extensive harborage for rats, or other vermin the Borough Manager, or Building Official or other duly designated person, is empowered, if said

conditions are not corrected in a period of thirty (30) days after written notification to the owner, to institute condemnation and demolition proceedings. The cost of such proceedings is to be borne by the owner.

(Ord. 489, 11/6/1972, §4)

§205. Prohibiting Harborage Conditions.

1. Unconsumed food shall not be allowed to remain where it is accessible to rats, mice, cockroaches, and other types of pests or vermin.

2. Garbage and waste materials shall be placed in non-leaking metal or plastic containers with securely fitted lids, plastic bags tightly bound, or such other tightly covered non-leaking containers as may be approved by the Board of Health and Borough Council; and stored in such a manner as not to create an attraction or harborage for rats, mice, cockroaches, and other types of pests or vermin.

3. When the Borough Manager notifies the person or persons in control of a building in writing that there is evidence of rat or other vermin infestation on the premises, the said person or persons shall immediately institute eradication measures and shall continuously maintain such measures in a satisfactory manner until the premises is declared by the Borough Manager or Building Official or duly designated person, to be free of such infestation. Unless said measures are undertaken within five (5) days after receipt of notice, it shall be construed as a violation of the provisions of this Part and the person or persons shall be held responsible thereof.

(Ord. 489, 11/6/1972, §5)

§206. Eradication Measures. When any building, lot, or premises is subject to infestation by rats, mice, cockroaches, or other types of pests or vermin, the person in control shall apply continuous or repeated eradication measures, as required by the Borough Manager or Building Official or duly designated person, until there is no evidence of infestation remaining. (Ord. 489, 11/6/1972, §6)

§207. Vermin-Proofing.

1. Whenever conditions inside, outside, or under a building, or on any lot or premises, provide harborage for rats, mice, cockroaches, and other types of pests or vermin, the Borough Manager or Building Official or other duly designated person, may require any one, or more buildings to be vermin-proofed.

2. The person or persons in control of a building or premises required to be vermin-proofed shall maintain the rat-proofing in good repair. No person shall injure the vermin-proofing. When the vermin-proofing is injured, in making alterations, installations, additions, or repairs to the building, the person in control shall restore the vermin-proofing to good condition.

(Ord. 489, 11/6/1972, §7)

§208. Penalties. Any person, firm or corporation who shall violate any provision of this Part 2 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 2 continues shall constitute a separate offense. (Ord. 489, 11/6/1972, §8; as amended by Ord. 675, 11/17/1986)

Part 3
Vegetative Growth

§301. Vegetative Height Restricted. No person, firm, partnership or corporation owning, leasing, occupying or having an interest in any real estate within the Borough of Emmaus shall permit any grass, weeds or vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain on such premises, including any portion of the premises occupied by a street or alley, and also, including the sidewalk, curb and gutter area of any street adjacent to the premises, so as to go to seed, or to emit any unpleasant or noxious odor, or to offer concealment to any filthy deposit, or to produce pollen, or to exceed a height of six inches (6"). All such vegetation is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort to the inhabitants of the Borough of Emmaus. (Ord. 635, 5/3/1982, §1)

§302. Removal of Nuisances.

1. The owner of any such premises, whether occupied by the owner or not, and the occupant thereof in case of premises occupied by other than the owner thereof, shall remove, trim or cut all such vegetation growing or remaining upon such premises in violation of the provisions of the first section of this Part. Both the owner and occupant in the case of premises occupied by other than the owner, shall be responsible for the compliance with this Part.

2. Provided, however, that the following limitations shall apply with reference to the enforcement of this Part: No such grass, weeds or similar vegetation as heretofore defined shall come within the terms of this Part if such grass, weeds, or vegetation shall be intermingled with growing cultivated crops.

(Ord. 635, 5/3/1982, §§2, 3)

§303. Notice; Borough May Do Work. In addition to the penalties as hereinafter imposed in this Part, the Mayor, or any officer or employee of the Borough designated thereby for the purpose, is hereby authorized to give written notice, by personal service or by the United States Mail to the owner or the occupant, or either of them, of a violation of the terms of this Part, directing and requiring such occupant or owner or both of them to remove, trim, spray, or cut such grass, weeds or vegetation, so as to conform to the requirements of this Part, within five (5) days after issuance of such notice. If any such owner or occupant shall neglect to comply with such notice within the period of time stated therein, the Borough authorities may remove, spray, trim or cut such grass, weeds, or vegetation so as to comply with the provisions of this Part, and the reasonable cost thereof, plus an additional charge of twenty percent (20%) of the cost, together with any additional penalty authorized by law, may be collected by the Borough from such owner or occupant as a penalty under the provisions of this Part, or in any other manner provided by law. This right as herein vested in the Borough shall be in addition to penalties prescribed by the provisions of this Part for the failure of the owner or occupant as aforesaid to comply with the terms of this Part. (Ord. 635, 5/3/1982, §4)

§304. Penalties. Any person, firm or corporation who shall violate any provision of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 3 continues shall constitute a separate offense. (Ord. 635, 5/3/1982, §5; as amended by Ord. 675, 11/17/1986)

Part 10
Hazardous Materials

§401. Title. This Part shall be known as the Transportation of Hazardous Material Ordinance. (Ord. 685, 10/5/1987, §I)

§402. Definitions. The following words or phrases when used in this Part shall have the meaning ascribed to them in this section, except when the context clearly indicates differently.

CFR - Shall mean the code of federal regulations. The numbers immediately preceding and immediately following the initials CFR shall refer to the volume, divisions and sections used to identify parts of the Code of Federal Regulations.

COMPRESSED GAS - Shall mean any substance regulated as a compressed gas by the United States Department of Transportation by regulations found in 49 CFR 173.300.

EXPLOSIVE - Shall mean any substance regulated as a class A explosive or as a class B explosive by the United States Department of Transportation, by regulations found in 49 CFR 173.53 and 49 CFR 173.88.

FLAMMABLE LIQUID - Shall mean any substance regulated as a flammable liquid by the United States Department of Transportation, by regulations found in 49 CFR 173.115.

FLAMMABLE SOLID - Shall mean any substance regulated as a flammable solid by the United States Department of Transportation by regulations found in 49 CFR 173.150.

HAZARDOUS MATERIAL - Shall mean any substance defined in this section as a compressed gas, explosive, flammable liquid, flammable solid, oxidiser, poisonous or radioactive material and biological waste.

OXIDISER - Shall mean any substance regulated as an oxidiser by the United States Department of Transportation by regulations found in 49 CFR 173.151.

POISON - Shall mean any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those substances regulated as poison A by the United States Department of Transportation by regulations found in 49 CFR 173.326.

RADIOACTIVE MATERIAL - Shall mean any substance required by the United States Department of Transportation to have type A packaging or type B packaging, under regulations found in 49 CFR 173.426.

TRANSPORT CARRIER - Shall mean any mode or conveyance moving on land upon wheels.

(Ord. 685, 10/5/1987, §II)

§403. Exemption. The regulations set out in this Part shall not apply to any transport carrier carrying no hazardous material except flammable liquid in a container or containers having a total capacity of not over one hundred ten (110) gallons or forty one point six hundred thirty five (41.635) dekaliters by volume. (Ord. 685, 10/5/1987, §III)

§404. Routes to be Followed. No person, firm or corporation shall transport any hazardous material through the Borough except over routes indicated as permitted routes identified below. Deliveries to destinations in the Borough shall be made by following permitted routes to the point where the least amount to travel off a permitted route will be needed to reach the destination, and by going to the destination and returning to the permitted route or routes by the method requiring the shortest travel distance off permitted routes.

SURFACE TRANSPORT - HIGHWAYS

1. State Road, Legislative Route 2005 from Borough Line west to Main Street.
2. Main Street, Legislative Route 2005 from State Road west to Chestnut Street.
3. Chestnut Street, Legislative Route 2005 from Main Street west to Borough Line.
4. Cedar Crest Blvd., Legislative Route 1019 from Chestnut Street north to Borough Line.
5. Dalton Street, Legislative Route 2002 from Borough Line west to East Main Street.
6. East Main Street, Legislative Route 2002 from Dalton Street west to Main Street.
7. Fourth Street, Legislative Route 2037 from Chestnut Street south to Broad Street.
8. Broad Street, Legislative Route 2037 from Fourth Street west to Pennsylvania Avenue.
9. Pennsylvania Avenue, Legislative Route 2027 from Broad Street west to Borough Line.
10. Tenth Street, Legislative Route 2027 from Chestnut Street south to Pennsylvania Avenue.
11. Fifty Street, Legislative Route 2037 from Broad Street south to Borough Line.

SURFACE TRANSPORT - RAILROADS

1. Conrail Main Line from Borough Line to Borough Line and adjacent sidings.
2. Anthracite Line from Borough Line to Borough Line and adjacent sidings.

(Ord. 685, 10/5/1987, §IV)

§405. Equipment. No hazardous material will be carrier on any permitted route for delivery in any transport carrier larger than a tractor with one trailer upon streets and roads, nor larger than a railroad tank car upon railroad lines. (Ord. 685, 10/5/1987, §V)

§406. Condition of Transport Carriers. Any transport carrier used to transport hazardous materials anywhere in the Borough shall comply with all federal and state laws and regulations. All transport carriers shall be maintained in a safe condition. (Ord. 685, 10/5/1987, §VI)

§407. Spills, Containments, Clean-up. In the event breakdown of a transport carrier containing hazardous materials within the Borough resulting in spill or escape of such material onto Borough streets or private property, the person, firm, or corporation transporting such material as well as the owners and consignee of the material shall be jointly and severally responsible for its physical containment, recovery and removal and for any costs incurred by the Borough or other responsible persons or agencies acting with the same purpose of containment recovery and removal from the environment. (Ord. 685, 10/5/1987, §VII)

§408. Signs and Maps. Signs shall be posted to inform the public of the permitted routes for hazardous materials. The Emmaus Police Department shall keep on hand copies of maps showing permitted routes for hazardous materials, and these maps shall be distributed free upon requests. (Ord. 685, 10/5/1987, §VIII)

§409. Severability. The provisions of this Part are severable, and, should any part be held invalid, such invalidity shall not affect the rest of the Part. (Ord. 685, 10/5/1987, §IX)

§410. Penalty. Any person, firm, or corporation violating any provision of this Part shall be fined not less than one thousand and 00/100 (\$1,000.00) dollars nor more than ten thousand and 00/100 (\$10,000.00) dollars for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues. (Ord. 685, 10/5/1987, §X)

Part 5
Littering

§501. Littering Prohibited. It shall be unlawful for any person, firm or corporation or any agent thereof to place, throw, store, accumulate or maintain, or cause to be placed, thrown, stored, accumulated or maintained any used cans, papers, paper boxes, used lumber, rubbish, debris, animal matter, garbage, empty bottles or other containers upon any property within the Borough of Emmaus or on or near any alley, highway or stream located in said Borough of Emmaus, except in accordance with any Borough of Emmaus Ordinance dealing with the collection of garbage, refuse, trash, or solid waste. (Ord. 692, 3/21/1988, §1)

§502. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred (\$300.00) dollars and/or, to imprisonment for a term not to exceed ninety (90) days. (Ordinance 692, 3/21/1988, §2)

Part 6

Reimbursement of Direct and Indirect Costs of Emergency Incidents

§601. Declaration of Purpose. The foregoing recital clauses are declared to be a declaration of purpose of this Part and are hereby incorporated by reference. * (Ord. 833, 6/3/1996, §1)

§602. Definitions. Terms used in this Part which are defined in the Pennsylvania Hazardous Materials Emergency Planning and Response Act, 35 P.S. §6022.101 et seq., or any subsequent amendments thereto, shall have the same meaning as in the said Act unless defined differently herein.

BOROUGH - the Borough of Emmaus.

COUNCIL - Borough Council of Emmaus.

EMERGENCY INCIDENT - an occurrence involving a risk of harm and/or imminent threat to private or public property, life or potential threat to the environment or public health or safety.

EMERGENCY RESPONSE AGENCIES -

- A. Borough of Emmaus Fire Department;
- B. Borough of Emmaus Ambulance Corps;
- C. Borough of Emmaus Police Department;

and similar emergency response agencies from other municipalities responding to a request for assistance/aid under a mutual aid agreement and Borough employees responding to an emergency incident at the request of an emergency response agency.

EMERGENCY SERVICE COSTS - all direct and indirect costs and expenses incurred/expended by the Borough and/or any emergency service agency in connection with any emergency incident including, but not limited to, the following:

- A. The cost of labor calculated by determining the actual hourly wage rate plus the hourly cost of fringe benefits (and including overtime rates, if applicable) normally paid by the Borough to Borough personnel involved in responding to any emergency incident or, in the case of emergency response agency volunteer personnel, as determined by the Borough Manager, taking into account the funds expended to train and properly equip each such volunteer, times the number of hours worked by each such volunteer, less one (1) hour, in response to any emergency incident.
- B. The cost of all nonreusable materials and all contaminated or consumed materials utilized in connection with any emergency incident.

*Editor's Note: The recitals are included in the original of Ord. 833 and are on file in the Borough office.

C. The cost of all equipment, calculated by estimating the number of hours of the useful life of such equipment and dividing the same into the replacement cost plus the maintenance cost of said equipment and then multiplying the result by the number of hours such equipment was "in service" in response to any emergency incident.

D. The administrative cost of record keeping, information processing and assembly/compilation of a bill of cost.

E. The reasonable attorney's fees and costs (including witness fees) of pursuing enforcement/collection action for emergency service cost against responsible parties.

RESPONSIBLE PARTY/PARTIES - the following person(s) or business entities shall, for the purpose of this Part, be deemed responsible parties:

A. The owner of any petroleum, petroleum distillate or by-product, hazardous material or chemical and the common carrier, including pipeline owner, of any such material.

B. The owner of the real property on which any petroleum, petroleum distillate or by-product, hazardous material or chemical is spilled, released, dumped, deposited or stored.

C. The owner of real property on or in which there occurs an unfriendly fire and/or a building, well, trench or sinkhole collapse requiring rescue efforts or otherwise threatening life, property or the environment and to which there is a response by an emergency response agency.

D. Any person(s) and/or legal entity or entities found to be legally responsible in any court of competent jurisdiction for the causation of any emergency incident.

(Ord. 833, 6/3/1996, §2)

§603. Emergency Incident. The occurrence of unfriendly fires, hazardous material, petroleum and chemical type spills, releases, fires and the unexpected collapse of wells, trenches, buildings and sinkholes requiring rescues or otherwise threatening life, property or the environment are all declared to be an emergency incident. (Ord. 833, 6/3/1996, §3)

§604. Responsible Parties. The responsible party/parties shall be liable for and shall reimburse the Borough for all of the direct and indirect emergency service costs incurred/expended by any Borough emergency service agency for labor, materials, equipment used in connection with any emergency incident. (Ord. 833, 6/3/1996, §4)

§605. Civil Action. The Borough may enforce this Part by having its Solicitor file civil action against any responsible parties in any court of competent jurisdiction for the recovery of emergency service costs. (Ord. 833, 6/3/1996, §5)

§606. Cost Billing and Collection Procedures.

1. The Borough Manager shall assemble/compile a bill of costs for each emergency incident as follows:

A. Within thirty (30) days after rendering services in connection with an emergency incident, or as soon thereafter as possible, the chief operating officer for each involved emergency response agency shall submit to the Borough Manager an itemized bill of costs calculated in accordance with the provisions of this Part.

B. The Borough Manager shall review all such bills of cost, correct any errors or duplications and compile a final documented total bill of cost.

2. Upon compilation of a complete bill of costs, the Borough Manager shall, within forty-five (45) days of the emergency incident, or as soon thereafter as possible, render an itemized billing statement to the responsible party/parties for the total amount of all submitted bills of cost plus fifteen (15) percent for administrative expense.

3. If the responsible party/parties have not paid the Borough bill of costs within forty-five (45) days from the date same was billed, the Borough Manager shall take appropriate enforcement/collection action against the responsible party/parties.

4. As an alternative to the foregoing procedure, the chief executive officer of any Borough emergency response agency which responded to an emergency incident may prepare, or cause to be prepared, an itemized bill of costs compiled in accordance with this Part for his or her emergency response agency only and submit the same directly to any responsible party for payment or submission for third party payment. However, any Borough emergency response agency which latter elects to submit a direct cost billing to a responsible party shall not, without the consent of the Borough Manager of the Borough, thereafter be entitled to submit such cost billing to the Borough for collection efforts in the event of nonpayment, partial payment or dispute concerning responsibility for payment or the amount of the cost billing.

(Ord. 833, 6/3/1996, §6)

§607. Disbursement of Recovered Costs. All monies received/recovered by the Borough under the provisions of this Part in connection with an emergency incident shall be deposited in a special Borough emergency services cost recovery account and, upon completion of cost recovery efforts, the Borough Manager shall disburse the funds recovered as follows:

A. Fifteen (15) percent of the total refunds shall be allocated to the Borough general fund to reimburse the Borough for the administrative costs incurred in effectuating and administering the cost recovery, except that if the Borough refers a bill of costs to its Solicitor for collection litigation, the Borough shall be reimbursed, in addition to the aforesaid fifteen (15) percent of the total funds recovered, the full amount of all legal services, costs and fees incurred in connection with the legal services performed by its Solicitor.

B. The balance of the funds recovered shall be disbursed, with explanation, to the emergency response agencies which submitted bills of costs in proportion to the amounts of each such bill of costs which was recoverable and recovered, and if the total amount recovered was less than the full amount of the total of the bills of costs, the disbursement to each emergency response agency shall be as determined appropriate by the Borough Manager with explanation to each emergency response agency.

(Ord. 833, 6/3/1996, §7)