

Chapter 6

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Part 1**Disorderly Conduct****§6-101. Unlawful to Leave Door Ajar.**

It shall be unlawful for any owner, proprietor or his employee or agent of any commercial house, tavern, restaurant or other place of business to permit or allow any door of entry or exit to stand open or ajar during hours from 3 p.m. to 8 a.m. By "door" is meant a door of solid construction, capable of diffusing and diminishing loud and raucous conversations; loud and profane utterances; disturbing noises from a television set, record player, radio, juke box, or other electrical transcription devices; and, loud and boisterous singing and shouting which disturb and intrude on the tranquility and peace of the immediate neighborhood and which is offensive to passersby. A screened or lowered door does not fall within the definition of "door" as used in this Section.

(*Ord. 78-5, 9/13/1978, §1*)

§6-102. Open Containers Prohibited; Exceptions.

1. It shall be unlawful for any person to possess, display, or drink from any open container having therein any alcoholic beverage in public view on any sidewalk, street, parking lot, shopping mall or in or on any moving vehicle within the Borough, except as set forth hereafter.

2. A conventional restaurant that has been granted a conditional use application to operate a sidewalk café pursuant to §27-305 of the Swissvale Borough Code, and that has gross sales which are comprised of not less than 30 percent in food sales, shall be permitted to serve, and its patrons shall be permitted to consume, alcoholic beverages in open containers which are sold by the restaurant and are consumed within the boundaries of the sidewalk café as set forth in the restaurant's application for conditional use.

(*Ord. 78-5, 9/13/1978, §2; as amended by Ord. 07-01, 8/1/2007, §1*)

§6-103. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 78-5, 9/13/1978, §3; as amended by Ord. 05-02, 6/1/2005*)

Part 2**Loitering****§6-201. Definitions.**

For the purposes of this Part, the following terms shall have the meanings indicated:

Disorderly conduct - within the limits of the Borough of Swissvale, any word, act or conduct which causes or tends to cause a disturbance or breach the peace or food order of the Borough; or which causes or tends to cause danger, annoyance or discomfiture to the inhabitants of the Borough of Swissvale or persons lawfully within said Borough, and shall include fighting, drunkenness, vagrancy, begging, loafing or the making of unnecessary noise, profane or indecent language, careless or reckless driving or any other use of vehicles by the owners or occupants thereof as shall endanger the safety or interfere with the comfort or convenience of any persons or persons lawfully using the public passageways of the Borough of Swissvale or residing in said Borough.

Public passageways - any public street, way, alley, step or sidewalk, entrance or exit of a public private structure in the borough of Swissvale.

Loiter - the act of failing to cease the hindering or obstruction of public passageways or interference with persons so as to cause them fear for their safety after being instructed by a Swissvale Borough police officer, auxiliary police officer or any other person acting lawfully and on behalf of Swissvale Borough to cease such activity.

(Ord. 90-7, 11/14/1990, §1)

§6-202. Unlawful to Engage in Disorderly Conduct.

It is unlawful and illegal for any person, either singularly or with others, to engage in disorderly conduct.

(Ord. 90-7, 11/14/1990, §2)

§6-203. Obstruction of Passageways Prohibited.

It is unlawful and illegal for any person, either singularly or with others, to obstruct the public passageways in the Borough of Swissvale in any manner whatsoever.

(Ord. 90-7, 11/14/1990, §3)

§6-204. Loitering Prohibited.

It is unlawful and illegal for any person to loiter within the Borough of Swissvale.

(Ord. 90-7, 11/14/1990, §4)

§6-205. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs

and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 90-7*, 11/14/1990, §5; as amended by *Ord. 05-02*, 6/1/2005)

Part 3**Curfew****§6-301. Curfew Hours.**

It shall be unlawful for any parent, guardian or other person having legal custody of any person under 18 years of age to allow or permit such person under 18 years of age to be or remain on the streets, alleys, parks or public places in the Borough between the hours of 10 p.m. and 5 a.m., provided that this Section shall not be applicable if such person under 18 years of age is accompanied by a parent, guardian or other person having the legal custody of such person, or if such person under the age of 18 is quietly and peacefully on his way from a party, entertainment, educational gathering, Borough function, athletic event, or other activity or event approved by the parent, guardian or other person having the legal custody of said person under 18 years of age.

(*Ord. 82-4, 5/12/1982, §1; as amended by Ord. 94-7, 7/13/1994, §1*)

§6-302. Chaperone Needed for Persons Under Age after Curfew Hours.

It shall be unlawful for any person under 18 years of age to be or remain on the streets, alleys, parks or public places in the Borough between the hours of 10 p.m. and 5 a.m., provided that this Section shall not be applicable if such person under 18 years of age is accompanied by a parent, guardian or other person having the legal custody of such person, or if such person under the age of 18 is quietly and peacefully on his way from a party, entertainment, educational gathering, Borough function, athletic event, or other activity or event approved by the parent, guardian or other person having the legal custody of said person under 18 years of age.

(*Ord. 82-4, 5/12/1982, §2; as amended by Ord. 94-7, 7/13/1994, §2*)

§6-303. Curfew Whistle.

As a warning, the fire signal of the Borough of Swissvale Fire Department or other audible signal designated by the Borough Council as a "curfew whistle" may be sounded each day at 9:45 p.m.

(*Ord. 82-4, 5/12/1982, §3; as amended by Ord. 94-7, 7/13/1994, §3; and by Ord. 95-7, 8/9/1995, §1*)

§6-304. Police Custody of Underage Past Curfew Hours.

Any person under the age of 18 years found upon any of the streets, alleys, parks or public places within the Borough between the hours of 11 p.m. and 5 a.m. shall be taken into custody by the Borough police and delivered to his parents or guardian or to the person having legal custody of him.

(*Ord. 82-4, 5/12/1982, §4*)

§6-305. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon

conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 90-7*, 11/14/1990, §5; as amended by *Ord. 05-02*, 6/1/2005)

§6-306. Officer's Discretion in Determining Age.

The police officers of the Borough in taking persons under 18 years of age into custody shall use their discretion in determining age, and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

(*Ord. 90-7*, 11/14/1990, §6)

Part 4**Graffiti****§6-401. Definitions.**

The following words and terms shall have the meaning indicated:

Graffiti - any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface or public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Borough Council.

Person - any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignor, or any other legal entity.

Graffiti implement - an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or other device capable of scarring or leaving a visible mark on any natural or man-made surface.

Community graffiti abatement project - any graffiti abatement project organized by a recognized community group and supported by the Department of Public Works through cash vouchers and /or the distribution of paint or other anti-graffiti supplies.

(Ord. 99-3, 5/12/1999, §1)

§6-402. Prohibited Acts.

1. *Defacement.* It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any Borough-owned property or, without the permission of the owner or occupant, on any non-Borough owned property.

(Ord. 99-3, 5/12/1999, §2)

§6-403. Penalties.

1. *Fines.* Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$50 nor more than \$1000 plus costs and, in default of payment of said fines and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues after notification in accordance with this Part shall constitute a separate violation of this Part. [Ord. 05-02]

2. *Restitution.* In addition to any punishment specified in this Section, the Borough Solicitor shall seek restitution to the Borough for reimbursement of any costs incurred by the Borough in removing the graffiti. In the case of a minor, the Borough Solicitor shall seek restitution from the parents or legal guardian, subject to the amounts specified in 23 Pa C.S.A. §5505 as may be amended.

3. *Community Service.* In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be ordered by the Court to perform community service.

The Borough shall provide the following supervision:

A. Community service shall be performed under the supervision of the Director of the Department of Public Works and shall be devoted to graffiti removal and/or any other clean-up tasks deemed appropriate by the Director.

(Ord. 99-3, 5/12/1999, §3; as amended by Ord. 05-02, 6/1/2005)

§6-404. Graffiti as Nuisance.

1. The existence of graffiti on public or private property in violation of this Part is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Part.

2. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

(Ord. 99-3, 5/12/1999, §4)

§6-405. Removal of Graffiti by Private Property Owner or Borough.

1. *Property Owner or Tenant.* It shall be unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the Borough to permit property in the Borough to permit property that is defaced with graffiti to remain defaced for a period of 10 days after service by first class mail of notice of the defacement by the Borough of Swissvale. The notice shall contain the following information:

A. The street address or legal description of the property sufficient for identification of the property.

B. A statement that the property is a potential graffiti nuisance property with a description of the conditions leading to the finding.

C. A statement that the graffiti must be removed within 10 days after receipt of the notice and that if the graffiti is not abated within that time the Borough will declare the property to be a public nuisance, subject to the abatement procedures set forth in this Section.

D. An information sheet identifying any graffiti removal assistance programs available through the Borough, community organizations and/or private graffiti removal contractors.

2. *Penalty for Violation.* Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$50 nor more than \$1000 plus costs and, in default of payment of said fines and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues after notification in accordance with this Part shall constitute a separate violation of this Part.

3. *Right of Borough to Remove.*

A. *Use of Public Funds.* Whenever the Borough becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the Borough shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of

the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Director of Public Works determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

B. *Right of Entry on Private Property.* Prior to entering upon private property or property owned by a public entity other than the Borough for the purpose of graffiti removal the Borough shall attempt to secure the consent of the property owner or responsible party and a release of the Borough from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Part, or if the Borough has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the Borough and consistent with the terms of this Section, the Borough shall commence abatement and cost recovery proceedings for the graffiti removal.

C. *Financial Responsibility.* Any property owner who fails to take steps to remove graffiti as required by §6-405.1 shall be responsible for reimbursing the Borough for the cost of such removal. The Borough Solicitor shall be authorized to file liens for the cost of the removal.

(Ord. 99-3, 5/12/1999, §5)

§6-406. Reward Authority.

1. The Chief of Police shall grant rewards of up to the sum of \$100 to individuals, organizations, or other entities who provide information leading to the arrest and conviction of any individual for violation of §6-402.

2. Rewards shall be granted from the Graffiti Trust Fund or such other trust fund or account within the Department of Public Safety, as the Director of Public Safety shall deem appropriate.

(Ord. 99-3, 5/12/1999, §6)

Part 5**Outdoor Pay Telephones****§6-501. Purpose.**

The purpose of this Part is to promote and protect the peace, safety and welfare of Swissvale Borough residents by eliminating or reducing the use of outdoor public telephones for drug trafficking and other criminal purposes.

(Ord. 95-1, 1/11/1995, §1)

§6-502. Definitions.

The following words and phrases shall have the meaning ascribed to them as follows:

Establishment holding a liquor license - any bar, tavern, pub, restaurant or other establishment that has a current liquor license from the Pennsylvania Liquor Control Board and serves or sells alcoholic beverages, excluding any beer distributorship or Pennsylvania State Liquor Store.

Tone signal capability - a dialing feature, other than pulse dialing, which sends a tone signal enabling the caller to access automated devices such as beepers, pagers and voice mail systems.

Pay telephone - any publicly accessible telephone that is coin or credit card operated.

Person - any individual, company, organization, corporation or other entity, private or public.

(Ord. 95-1, 1/11/1995, §2)

§6-503. Outdoor Pay Phone Near Establishment Holding Liquor License Prohibited.

It shall hereafter be unlawful for any person to request, permit, maintain or cause the placement of any outdoor pay telephone within 100 feet of any establishment holding a liquor license. All such telephones in existence prior to the effective date of this Part shall be immediately removed by the owner or agent of the owner of the telephone.

(Ord. 95-1, 1/11/1995, §3)

§6-504. Outdoor Pay Phone That Receives Incoming Calls Prohibited.

It shall hereafter be unlawful for any person to request, permit, maintain or cause the placement of any outdoor pay telephone within the boundaries of the Borough of Swissvale that has tone signal capability or that has the capacity of receiving incoming calls. All such telephones in existence prior to the effective date of this Part shall immediately be modified to disable the tone or incoming call feature by the owner or agent of the owner of the telephone. In the event such feature(s) cannot be disabled, the telephone shall be removed.

(Ord. 95-1, 1/11/1995, §4)

§6-505. Locations of Outdoor Pay Phones Requested by Borough.

No later than 30 days after the effective date of this Part, every person who owns or maintains an outdoor pay telephone in the Borough shall file with the Borough a list of the locations of all pay telephones owned or maintained indicating whether such telephones are located within 100 feet of an establishment holding a liquor license and whether the telephones have incoming call capability or tone signal capability. Any outdoor public telephone not appearing on any submitted list shall be subject to immediate removal at the owner's expense beginning 31 days after the effective date of this Part.

(Ord. 95-1, 1/11/1995, §5)

§6-506. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. No fines will be imposed with respect to outdoor pay telephones in existence on the date of enactment of this Part until 31 days after its effective date.

(Ord. 95-1, 1/11/1995, §6; as amended by Ord. 05-02, 6/1/2005)

§6-507. Removal of Unauthorized Outdoor Pay Phones.

1. In addition to the penalties imposed by §6-506, any pay telephone installed or maintained in violation of this Part may be immediately removed by the Borough except that no pay telephone in existence prior to the effective date of this Part may be removed by the Borough prior to the thirty-first day after the effective date of this Part. The Borough may charge the costs of removal jointly and severally to its owner, operator and the person who owns or controls the real property on which the telephone is located.

2. Any pay telephone removed by the Borough pursuant to this Part may be reclaimed by the owner within 30 days after its removal. The owner must reimburse the Borough for its removal and storage costs before any such telephone may be reclaimed. Such costs shall also include the costs of removing any installation ancillary to the pay telephone and the costs of restoring the property to its original condition. Any telephone not so reclaimed within 60 days of removal may be disposed of as unclaimed property by the Borough.

(Ord. 95-1, 1/11/1995, §7)

Part 6**Interference with Emergency Alarms Systems****§6-601. Unlawful to Tamper.**

From and after the passage of this Part, it shall be unlawful for any person to tamper with or set in operation the emergency alarm system of the Borough of Swissvale unless the person operating the emergency alarm system does so with the belief that the Fire Department or Police Department is necessary in the vicinity of the alarm box from which the alarm is given.

(Ord. 65-2, 3/10/1965, §1)

§6-602. Reward Offered for Information Concerning Violating this Part.

The Fire Committee and/or the Police Committee is hereby authorized from time to time to offer a reward not exceeding \$25 for information leading to the arrest and conviction of anyone violating the provisions of this Part.

(Ord. 65-2, 3/10/1965, §2)

§6-603. Violation and Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 65-2, 3/10/1965, §3; as amended by Ord. 05-02, 6/1/2005)

