

ORDINANCE NO. ____-2006

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING CHAPTER 158 OF THE CODE OF THE BOROUGH OF KUTZTOWN, WHICH CHAPTER IS ENTITLED "PEACE AND GOOD ORDER", BY AMENDING AND RESTATING §158-1(C), §158-1(E) AND §158-1(G); REPEALING §158-1(B), §158-1(D), §158-1(H) AND §158-1(J); ADDING §158-1(P); AND ADDING THE DEFINITION "OPEN BURNING" TO §158-3.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

WHEREAS, the Council of the Borough of Kutztown desires to omit certain provisions of Chapter 158 of the Code of the Borough of Kutztown that are addressed by other statutes; amend the "Open Burning" provisions of Chapter 158; amend the provisions of Chapter 158 addressing false alarms; amend the provisions of Chapter 158 addressing loitering in public; and to prohibit the depositing of human excrement, vomit, or other human bodily waste unless it is deposited in an appropriate receptacle; and

WHEREAS, such changes require that amendments be enacted to the "Code of the Borough of Kutztown," also known as the "Kutztown Code," enacted by Ordinance No. 12-1995, which was enacted on December 30, 1995, as amended from time to time thereafter.

THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. The Code of the Borough of Kutztown is hereby amended so as to repeal §158-1(B), §158-1(D), §158-1(H) and §158-1(J) of Chapter 158, entitled "PEACE AND GOOD ORDER".

SECTION 2. The Code of the Borough of Kutztown is hereby amended so as to amend and restate §158-1(C), §158-1(E) AND §158-1(G) of Chapter 158, entitled "PEACE AND GOOD ORDER" as follows:

§158-1(C). To loaf, loiter, lounge, stand or congregate on or otherwise occupy any of the sidewalks, streets, crossings, street corners, bridges, highways or alleys in front of or about any place of business or other public place within the Borough of Kutztown in such a way as to obstruct the free flow of vehicular and/or pedestrian traffic.

§158-1(E). To willfully conduct or cause to be conducted, or, being the owner of any premises or having control thereof, to knowingly permit within or on said premises,

any OPEN BURNING, as defined by §158-3 of this article, upon any sidewalk, roadway, or property within the Borough of Kutztown.

§158-1(G). To knowingly and intentionally utilize or access any 911 Emergency Communications System or Wireless E-911 System to contact a Public Safety Answering Point, as defined by the Pennsylvania Public Safety Emergency Telephone Act, as amended, by dialing 9-1-1 without having a legitimate purpose.

SECTION 3. The Code of the Borough of Kutztown is hereby amended so as to add §158-1(P) of Chapter 158, entitled “PEACE AND GOOD ORDER” as follows:

§158-1(P). No person shall deposit, or permit to be deposited, on publicly or privately owned property, any human excrement, vomit, or other human bodily waste unless such waste is deposited in a toilet, urinal, or other receptacle designed, intended and made available for such use.

SECTION 4. The Code of the Borough of Kutztown is hereby amended so as to add the definition of “OPEN BURNING” to §158-3 of Chapter 158, entitled “PEACE AND GOOD ORDER” as follows:

OPEN BURNING – The burning of any materials, including but not limited to any wood, paper, hay, straw or other inflammable substance, wherein products of combustion are emitted directly into the outdoor atmosphere without passing through a stack, chimney or screen from an enclosed chamber. For purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion takes place, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and to permit the escape of exhaust gases are open. During the time of combustion, permissible enclosures, such as lawn stoves, shall be maintained at a distance of no less than ten (10) feet from any structure and the smoke and emissions from the enclosure shall not pose a safety hazard. Additionally, during the time of combustion, such enclosures shall be attended by a responsible person at all times. Exemptions are defined under Chapter 168-9(B) of this Code.

SECTION 5. Except to the extent specifically set forth herein, Chapter 158 of the Code of the Borough of Kutztown shall remain unaltered and in full force and effect.

SECTION 6. If any provision, sentence, clause, section or part of this ordinance shall for any reason be found unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance, and it is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

SECTION 7. All ordinances or parts of ordinances and all existing portions of the Code of the Borough of Kutztown inconsistent herewith are hereby repealed.

SECTION 8. This Ordinance shall become effective upon enactment.

ENACTED AND ORDAINED as an Ordinance this ____ day of _____, 2006.

BOROUGH OF KUTZTOWN

By: _____
Carl W. Mantz, President of Borough Council

Attest: _____
Bonnie Bray, Secretary of the Borough

APPROVED as an Ordinance this ____ day of _____, 2006.

Sandra K. Green, Mayor