

# Chapter 113

## LOITERING

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#### *Loitering*

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### ARTICLE II

#### *Possession and Use of Tobacco Products by Certain Minors is Prohibited [Added 09-01-04 by Ord. No. 972]*

- § 113.10. Prohibited Possession and Use of Tobacco Products by Certain Minors.

**[HISTORY: Adopted by the BOROUGH COUNCIL 12-5-73 as Ord. No. 511. Section 113.6 amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable. Entire Chapter amended on 4-21-04 by Ord. No. 969.]**

### ARTICLE I

#### *Loitering*

- §113.1. Trespass.

Whoever enters upon the land, or building, or any part thereof of another, after receiving, prior to such entrance, notice from the owner or occupant that such entry is forbidden, or remains upon the land or building, of another, after receiving notice from the owner, or occupant, or duly authorized representative, to depart commits a violation of this Chapter.

113.1.1. A person has received notice from the owner or occupant within the meaning of §113.1 if he has been notified personally, either orally or in writing, including a valid court order, or if a printed or written notice forbidding such entry or

remaining on the premises has been conspicuously posted or exhibited at the entrance or on such land, building or other property.

**§ 113.2. Loitering.**

It shall be unlawful for any person or persons to loiter at the corners of or on public streets or in front of any store, shop or place of amusement or in any shopping center or place of worship; and any such person or persons who are so loitering shall, when requested to disperse by any police officer or code enforcement officer of the Borough shall move as requested and directed, and failure to so disperse shall be a violation of this Chapter.

**§ 113.3. Graffiti.**

It is unlawful for any person to inscribe, draw or otherwise place upon the surface of any structure or wall which is publicly or privately owned, any sign, symbol, marking, name, initial, word, diagram, sketch, picture, or letter without the permission of the owner of the property. The above list is not to be a limitation, but is merely illustrative of items known as graffiti. The provisions of this Section shall not apply to federal, state or local government officials and employees or public or private utility official representatives and employees with respect to the posting or labeling of tax notices or other markings on buildings or other properties while in the course of their employment or in the performance of their official duties.

113.3.1. It shall be an affirmative defense to an alleged violation of the foregoing provision if such activity was undertaken with a prior written consent of the owner of the property, demonstrating that the owner was aware of the content and method of the inscription to be placed on the structure or wall; however, no owner of property shall place or give permission to place on any property, real or personal, which is in any public view, any signs, symbol, marking, drawing, name, initial, work diagram sketch, picture or letter which incites violence by reference to a gang or criminal activity, depicts or expresses references to sexual activity or contains defamatory material about a public or private person.

113.3.2. Graffiti as defined above is a nuisance and is subject to abatement as follows:

113.3.2.1. Upon written notification by the Borough, the owner of the property upon which graffiti has been illegally placed shall remove the graffiti within seven (7) working days from the date of notice.

113.3.2.2. A property owner may request in writing an extension of time to remove graffiti. Said request shall be in writing and specify the basis of the request. The appropriate officers of the Borough shall make a determination, in writing, as to whether or not an extension shall be granted and for what period of time.

113.3.2.3. Failure of the property owner to remove the graffiti within the time specified shall be a violation of this Chapter and subject to the

provisions of § 113.8 of this Chapter.

**§ 113.4. Conduct Causing Alarm, Annoyance or Disorderly Conduct.**

Where one (1) or more persons are participating in a course of disorderly conduct which causes or may reasonably be expected to cause harm or serious inconvenience, annoyance or alarm, any public servant engaged in executing or enforcing the law may order the participants and others in the immediate vicinity to disperse. Any person who refuses or knowingly fails to obey such an order shall commit a violation of this Section.

**§ 113.5. Vandalism.**

No person shall commit any of the following within the corporate limits of the Borough of Whitehall:

Maliciously, recklessly or knowingly damage, deface or destroy any property of another person;

Maliciously, recklessly or knowingly by means of fire or explosive device, damage, deface or destroy any property of another person;

Maliciously, recklessly or knowingly start a fire on the land of another person;

Maliciously, recklessly or knowingly deposit on the land or in the building of another person any offensive compound or material which interferes with the reasonable use and occupancy of the land or building by another;

Maliciously recklessly or knowingly and without authority enter into any building, house, trailer, motor vehicle, aircraft or watercraft, or any part thereof of another person.

If acts enumerated in the preceding paragraphs shall be performed by an unemancipated juvenile, the juvenile shall be deemed to have committed the offense or offenses enumerated in this section with the knowledge, consent, acquiescence and permission of the parent or legal guardian with whom he/she resides.

**§ 113.6. Obstructing Public Passage.**

A person who, having no legal privilege to do so, intentionally or recklessly obstructs any highway, sidewalk or public or private passage, whether alone or with others, shall be in violation of this Chapter.

**§ 113.7. Possession of Alcoholic Beverages on Public Streets or in Other Public Places.**

It shall be unlawful for any person to be in possession of alcoholic beverages on a public street or other public place, unless the alcoholic beverage is in its original container with the seal unbroken or unless possession is on the premises of an establishment with a valid liquor license. For purposes of this Section, a public place shall include, but not be limited to, all streets, rights of way, parking lots, and Borough owned properties, all parking lots in common areas serving commercial establishments or multi-family residential structures, provided this prohibition shall apply to such commercial or multi-family parking and common area only if the

owner, manager or homeowner's association has stated in writing that it is the intent of the owners that the prohibition be applied. The written statement may reserve the right of management to give one (1) day permits for residents or tenants to hold social gatherings in common areas.

**§ 113.8. Violations and Penalties.**

Any person or persons violating any of the provisions of this Article shall be subject to the maximum penalty provided by law.

**§ 113.9. Parental Liability.**

Any parent whose child under the age of 18 years is adjudged guilty by a court of competent jurisdiction of a violation of any Section of this Chapter shall be subject to penalties provided in § 113.8 of this Chapter in addition to penalties imposed upon the offender in the discretion of the court.

**ARTICLE II**

***Possession and Use of Tobacco Products by Certain Minors is Prohibited***  
***[Added 09-01-04 by Ord. No. 972]***

**§ 113.10. Prohibited Possession and Use of Tobacco Products by Certain Minors.**

It shall be unlawful for any minor under the age of 18 years to use or possess tobacco in any form within the Borough of Whitehall in any Borough-owned property or on any public street, roadway, highway, traffic way, alley or sidewalk.

113.10.1. **Definitions** The following definitions are applicable to § 113.10:

113.10.1.1. ALLEY - A street or highway intended to provide access to rear or side lots of buildings and not intended for the purpose of through vehicular traffic.

113.10.1.2. HIGHWAY - The entire width between the boundary line of every way publicly maintained when any part thereof is open to the use of the public for purpose of vehicular travel. The term includes a roadway open to the use of the public for vehicular travel on grounds of a public or private school or public or historic park.

113.10.1.3. ROADWAY - That portion of the highway improved, designed or ordinarily used for vehicular traffic, exclusive of the sidewalk, berm or shoulder.

113.10.1.4. SIDEWALK - That portion of a street between curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

113.10.1.5. STREET - A roadway, as defined herein.

113.10.1.6. TOBACCO - A lighted or unlighted cigarette, cigar, pipe or other lighted smoking product and smokeless tobacco in any form.

113.10.1.7. TRAFFICWAY - The entire width between property lines or other boundary lines of every way or place of which any part is open to the public for purposes of vehicular travel as a matter of right or custom.

113.10.2. **Penalties** - A violation of this Article shall be a summary offense and any person who violates this Article shall, upon conviction, be sentenced to pay a fine of up to Fifty Dollars (\$50.00).