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Part 1
Property Nuisances

§101. Short Title.

This Part shall be known as the "City of St. Marys Nuisance Ordinance." (Ord. 4, 1/31/1994)

§102. Authority and Purpose.

This Part is adopted pursuant to the Home Rule Charter. The purpose of this Part is to promote the health, safety and general welfare of the inhabitants of the City. (Ord. 4, 1/31/1994)

§103. Applicability.

This Part shall not apply to persons operating a business licensed and regulated under the City of St. Marys Junkyard Ordinance, [Chapter 13, Part 4]. If any provision of this Part conflicts with the Pennsylvania Vehicle Code, the provisions of the Vehicle Code shall apply. (Ord. 4, 1/31/1994)

§104. Definitions.

Certain words and phrases used in this Part shall have the following meanings:

ABANDONED VEHICLE – a motor vehicle:

- A. That is inoperable and is left unattended on public property for more than forty-eight (48) hours;
- B. That has remained illegally on public property for a period of more than forty-eight (48) hours;
- C. Without a valid registration plate or certificate of inspection left unattended on or along a highway; or,
- D. That has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.

DANGEROUS STRUCTURE – any building which has deteriorated to the state where it is dangerous and unsafe for human occupancy, constitutes a fire hazard, endangers surrounding buildings, shelters rats or other vermin, or endangers the safety of children playing about it.

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GARBAGE – animal, vegetable and organic waste, from the handling, preparation, cooking and consumption of food.

JUNK – any one of the following articles accumulated on any property, whether or not intended for reuse or sale, and whether or not such article has value:

- A. Used articles of metal, wood, glass, plastic, rubber or paper.
- B. Used tires.
- C. Used household appliances.
- D. Parts of motor vehicles.
- E. Abandoned or discarded materials.

JUNKED VEHICLE – any motor vehicle, as defined in the Vehicle Code, which is unable to move under its own power and has any of the following physical defects:

- A. Broken windshield, mirror, or other glass, with sharp edges;
- B. One (1) or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the vehicle.
- F. Upholstery which is torn or open which could permit animal or vermin harborage.
- G. Broken headlamps or taillamps with sharp edges.
- H. Disassembled chassis parts from the vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.

- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floor bards including truck and fire wall.
- O. Damaged bumpers pulled away from the perimeter of the vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennae.
- S. Vehicle raised or suspended on unstable supports.
- T. Such other defects which could threaten the health, safety, and welfare of the citizens of the City.

PERSON – any individual, partnership or corporation.

RUBBISH – all waste and discarded materials having only a junk or salvage value.

(Ord. 4, 1/31/1994)

§105. Nuisances Prohibited.

The following nuisances are prohibited within the City of St. Marys:

- A. The storage of junk or junked vehicles, except within a closed building.
- B. The accumulations of garbage and rubbish, except as provided in any City ordinance regulating the accumulation and disposal thereof.
- C. An abandoned vehicle.
- D. A dangerous structure.

(Ord. 4, 1/31/1994)

§106. Removal of Nuisance.

Any person known to own or maintain a prohibited nuisance shall remove or abate the same within thirty (30) days after service of notice. (Ord. 4, 1/31/1994)

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§107. Prima Facie Evidence.

Ownership, maintenance, control or use of property upon which a nuisance is located shall be deemed prima facie evidence of maintenance of the nuisance. (Ord. 4, 1/31/1994)

§108. Penalty.

Any person who fails to comply with §106 shall, upon conviction thereof, be fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. (Ord. 4, 1/31/1994)

§109. Removal by City.

1. The City may enter upon any property for the purpose of removing any nuisance.
2. In addition to the penalty provided in §108, the City may collect the cost of removing the nuisance from the person responsible by a summary proceeding, by filing a municipal claim, or by an action in assumpsit.

(Ord. 4, 1/31/1994)

§110. Injunction.

In addition to the other remedies above provided, the City may institute proceedings in a court of equity to abate the nuisance. (Ord. 4, 1/31/1994)

Part 2

Noise Disturbance

§201. Unreasonable Reproduction or Amplification of Sound Prohibited.

No person shall operate, play or permit the operation or playing of any radio, television, phonograph, audiotape, compact disc player, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

- A. At any time of the day in such a manner from any source as to create a noise disturbance across a real property boundary; or,
- B. In such a manner as to create a noise disturbance across any real property boundary when operated in or on a motor vehicle on a public right-of-way or public place; or,
- C. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier; or,
- D. At such a sound intensity that the sound is audible from a distance of fifty (50) feet in any public area or on any street or sidewalk in the City.

(Ord. 37, 1/15/1996, §201)

§202. Penalty.

Any person who violate any of the provisions of this Part shall, upon conviction in a summary proceeding, be subject to a penalty of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) plus costs of prosecution; and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. (Ord. 37, 1/15/1996, §202)

Part 3

Low Level Radioactive Waste

§301. Title.

This Part shall be known as the "St. Marys Low Level Radioactive Waste Ordinance."

(Ord. 71, 8/18/1997, Art. I)

§302. Purposes and Authority.

1. Purposes. This Part has been adopted for the following purposes:
 - A. To protect the health, safety and general welfare of all citizens of the City by preventing exposure to airborne radioactive substances in all media.
 - B. To preserve the natural environmental qualities of all land and its flora and fauna within the City.
 - C. To promote the sustainable economic wellbeing of the City by preservation of camping, hunting, fishing and other recreational opportunities for the residents of the City and tourists.
 - D. To protect against the infliction of psychological or emotional stress on City residents from the reasonable fear of exposure to radiation.
 - E. To preserve the values of a healthy environment for future generations.
 - F. To preserve and protect agriculture and agriculture-related activities.
2. Interpretation. This Part shall be liberally interpreted to give priority to the purposes stated in subsection (1) over such consideration as economics, efficiency and scheduling factors.
3. Authority. This Part is adopted pursuant to the authority granted to the City by all relevant State and Federal laws including, but not limited to, the following:
 - A. The Pennsylvania Constitution, Article I, §27.
 - B. The City of St. Marys Home Rule Charter.
 - C. The Low Level Radioactive Waste Disposal Act, Act of February 9, 1988, P.L. 31, Act No. 12, 35 P.S. §7130.101, as from time to time amended.

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- D. Pennsylvania Air Pollution Control Act, Act of January 8, 1960, P.L. (1959) 2119, 35 P.S. §4001, as amended.
- E. Appalachian State Low Level Radioactive Waste Compact Act of 1985, 35 P.S. §7125.1, et seq.
- F. Clean Air Amendments of 1977, 42 U.S.C. §§7416, 7422.
- G. Pennsylvania Low Level Radioactive Waste Disposal Regional Facility Act, Act of July 11, 1990, P.L. 436, Act No. 107, 35 P.S. §7131.101 et seq.
- H. Any other State or Federal laws which explicitly or implicitly give jurisdiction over this matter to the City of St. Marys.

(Ord. 71, 8/18/1997, Art. II)

§303. Definitions.

The following terms shall have the meaning defined in this Section wherever they are used in this Part:

ABOVE GROUND FACILITY – a facility above ground level constructed with triple dedicated engineered barriers isolating the contents from the environment.

BUFFER ZONE – the portion of waste site that is controlled by the licensee and that lies under the waste units and between the waste units and the site boundary.

COMPACT STATES – are Pennsylvania, Delaware, Maryland and West Virginia.

CONTAINER – the first sealed leak-proof solid enclosure which encompasses the radioactive waste and which may include a means for controlled bleeding of gaseous decay products into another container.

CONTAINMENT – the isolation of radioactive waste substances and radiation from the biosphere by means of engineered barriers and waste site design.

CITY – the City of St. Marys.

DEPARTMENT – the Pennsylvania Department of Environmental Protection or its successor agency.

ENVIRONMENTAL CONTROL OFFICER – an individual who is or shall become a permanent resident of the City whose full compensation shall be reimbursed to the City by the operator. The basic minimum qualifications for employment shall include the highest appropriate formal training and experience available. This in-

individual will be required to remain current and abreast of issues and information affecting the disposal of nuclear waste.

FACILITY RECORDS – all information regarding origin, contents, transport and other relevant data for all low level radioactive waste.

FILL – fill, grout or other material which is placed in void spaces between radioactive waste containers or waste modules within the waste unit to provide structural strength against subsidence and collapse.

HAZARDOUS LIFE – the amount of time that it takes for the LLRW to decay to levels so that unrestricted use of the site could not result in exposure to total radioactive levels higher than the radioactive levels measured at the site prior to the site being used for storage.

INSPECTOR – an individual appointed by and reporting to the City to perform inspections of all activities at the waste facility, as provided under §318 of the LLRW Act.

INSTITUTIONAL CONTROL PERIOD – the time of the continued observation, monitoring and care of the facility following transfer of control from the operator to the custodial agency, which shall continue for the hazardous life of the waste.

LEAK PROOF – the engineered design feature which eliminates the inflow or outflow of solid, liquid or gas by any means, including selective absorption and adsorption or ion exchange, except into a container through a control valve.

LOW LEVEL RADIOACTIVE WASTE or LLRW – radioactive waste as deemed in §11(e)(2) of the Atomic Energy Act of 1954, codified as amended at 42 U.S.C. §2014(e)(2), or in the LLRW Act or the Low Level Radioactive Waste Disposal Regional Facility Act, Act No. 1990-107, whichever is more inclusive.

LLRW ACT – the Pennsylvania Low Level Radioactive Waste Disposal Act, Act of February 9, 1988, P.L. 31, Act No. 12, 35 P.S. §7130.101 et seq., as from time to time amended.

MIXED WASTE – low level radioactive waste that either (1) contains hazardous waste listed in the Code of Federal Regulations, 40 CFR Part 261, Subpart D, or (2) exhibits any of the hazardous characteristics identified in 40 CFR Part 261, Subpart C.

MONITORING ZONE – a ten (10) mile radius from the center of the waste site.

PUBLIC ACCESS TO INFORMATION – a public library which is stocked with historical and current information related to low level nuclear waste, preservation of the environment, protection of the people, flora and fauna and all matters related to the health, safety and welfare of the City. All expenses related to the es-

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establishment, operation and/or maintenance shall be determined by the City and shall be at the sole expense of the operator.

REQUIRED RECORDS – independent daily water well, surface water, soil, gas and oil well, plant and continuous air sampling, as well as human and animal health surveys or tests as shall be recommended or requested by the Environmental Control Officer, Environmental Advising Council or recognized health practitioner. Such required records shall be kept regarding the waste facility, waste site and the area within the City as well as affected municipalities. Such data collection shall commence with the issuance of the siting permit and be required and directed by the City. A copy of these records shall be made available through the public access to information. Any costs associated with such required records shall be borne by the operator.

REQUIRED SERVICES – fully funded and appropriately trained fire, emergency, medical, support, transportation, development, maintenance and environmental resources personnel, along with necessary staff, facilities and equipment and other benefits deemed necessary which shall be provided at the sole expense of the operator for the welfare of the City residents. Such benefits shall be fully in place and functioning prior to the operation of the waste facility, free to the recipients and shall continue through the institutional control period.

SIGNIFICANT THREAT – a threat of causing injury by the following conduct: violating any Federal or Pennsylvania environmental quality standard; contaminating groundwater, surface water, flora, fauna or air so as to pose an immediate hazard to human health by exposure to substances that cause human life shortening injuries, e.g., a long latency cancer or genetic or other disabilities or that cause kills of fish or wildlife; threatening the viability of an endangered species or any species placed on a threatened or special concern list; contributing to an accumulation of radioactive or hazardous toxic substances in fish or wildlife, so that such fish or wildlife are rendered unfit for human consumption or disrupting a food chain in an ecosystem.

TRIPLE DEDICATED ENGINEERED BARRIER – the three (3) leakproof structures, referred to in this Part as a container, waste module and waste unit, each of which is independently required to ensure the containment of radioactive waste from the environment for the hazardous life of waste.

WASTE FACILITY – the containers, waste units, administrative and support facilities, other buildings, equipment and engineered features on a site where radioactive waste is stored including all improvements thereon.

WASTE MODULE – a second leakproof engineered structure harboring the containers within a waste unit.

WASTE SITE – the property on which the waste facility is located, including the buffer zone.

WASTE UNIT – a third leakproof engineered structure which contains waste modules.

WELL SAMPLING – the test wells to be drilled at appropriate depths around the perimeter of the waste facility, as well as the testing of all public and private wells within three (3) miles of the boundary of the waste facility.

(Ord. 71, 8/18/1997, Art. III)

§304. Administration.

1. Environmental Control Officer. The City Manager shall appoint an Environmental Control Officer, who shall have the authority and whose duties shall be as follows:
 - A. To receive and review all applications required under this Part and making recommendations to the City regarding the action to be taken thereon.
 - B. To assure that the operator of each waste facility fully complies with all of the provisions of this Part.
 - C. To initiate and prosecute all legal actions required to enforce this Part.
 - D. To regularly review the public access to information to assure that the information contained therein is current and relevant to the needs of the City.
 - E. To conduct regular and periodic inspections of the waste facility to assure continued compliance with the provisions of this Part.
 - F. To have the unrestricted and immediate right to enter onto the waste facility, to assure compliance with the provision of this Part.
 - G. To receive and review of all reports relating to fees and surcharges made by or payable by the operator of a waste facility for the benefit of the City, as well as the power to collect all such fees and surcharges which become delinquent and any penalties assessed by the City.
 - H. To assure that all studies required under the LLRW Act for the benefit of the City are performed in a timely, thorough and professional manner and in the best interests of the residents of the City.
 - I. To protect the health and safety of the residents of the City.
 - J. To have and perform such other duties as may be from time to time imposed by the City.
 - K. The Environmental Control Officer may also serve as an inspector.

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2. Inspectors.
 - A. The City shall appoint two (2) inspectors, who shall be or become residents of the City of St. Marys and who shall have the duty to perform inspections of all activities at the waste facilities under a written agreement with the Department. The inspectors shall have the right of independent and immediate access at will to inspect any and all records and activities at the site and to carry out joint inspections with the Department.
 - B. The inspectors shall also have such additional powers as are granted under the LLRW Act and particularly §305(2) thereunder.
3. Environmental Advisory Council. There is hereby created an Environmental Advisory Council, consisting of not more than seven (7) residents of the City, who shall be appointed by the St. Marys City Council and shall represent a cross-section of City residents (e.g., resident of host municipality, physician, engineer) and who shall have the following powers and duties:
 - A. Recommend a person to be appointed as Environmental Control Officer.
 - B. To review all applications required under this Part and make recommendations thereon to the City.
 - C. To conduct a study on behalf of the City of any potentially suitable site application, to make application for funding of said study and to expend the funds so provided for all necessary technical assistance, subject to approval of the City, as provided in §318(a) of LLRW Act.
 - D. To conduct an evaluation of each license application, to make application for funds to conduct such evaluation, to hire the necessary technical support to properly evaluate such applications (subject to prior approval by the City) and to prepare and propose to the City findings regarding the application to be submitted to the Department for inclusion in the licensing proceedings, as provided in §318(b) of the LLRW Act.
 - E. To provide counsel and assistance to the Environmental Control Officer and the inspectors in the performance of their duties.
 - F. To study and make recommendations to the City for the adoption of regulations and ordinances necessary for the protection of the environment of the City and the health of its residents.
 - G. To exercise such powers as would otherwise be granted to an environmental advisory council established pursuant to the Act of December 21, 1973, P.L. 425, Act No. 148, 53 P.S. §11501 et seq., as from time to time amended.
4. Surcharge.

- A. The operator of a waste facility shall establish and levy a surcharge, at a rate determined from time to time by resolution of the City Council, for all waste disposed at the waste facility.
 - B. The operator shall, on or before the tenth day of each month, pay to the City all of the surcharges collected during the preceding calendar month. Each payment shall be accompanied by a report, in a form approved by the City, detailing the date, source, amount and radiological control of each deposit of LLRW made at the facility, as well as the surcharge made for each such deposit.
 - C. The City shall have the right to audit the records of the operator on an annual basis to determine that there has been a proper collection and remittance of the surcharge.
 - D. The operator shall be responsible for the payment of all uncollected surcharges.
 - E. The City shall have the right at any time to amend the rate of surcharge to meet all of the expenses permitted under §318(f) of the LLRW Act.
 - F. All of the monies collected for surcharges shall be placed in the special account provided under §304(5) of this Part.
5. Special Account.
- A. All fees collected pursuant to §304(4)(F) of this Part shall be deposited into a special account, designated as the "LLRW Special Account," and shall be used for the following purposes:
 - (1) All fees, expenses and other costs of administration of this Part.
 - (2) Payment of compensation and overhead expenses for the Environmental Control Officer and other City employees involved in the administration of this Part.
 - (3) A reasonable fee payable to the City for the administration of the account.
 - B. The funds held in the LLRW special account shall not be available for payment of any costs or penalties associated with abatement of any public nuisances created by operation of the LLRW facility.
 - C. The LLRW special account shall be under the management and control of the St. Marys City Council. The funds in the account shall be used solely for the City expenses related to the LLRW facility that are not otherwise reimbursed to the City. The funds shall not be used for general fund purposes.

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(Ord. 71, 8/18/1997, Art. IV)

§305. Siting.

1. Prohibition. No waste facility shall be constructed within the City without first obtaining a siting permit under this Part.
2. Application.
 - A. An application for a siting permit shall be made on a form provided by the City. The application shall be submitted at the same time as the applicant submits its potentially suitable sites application to the Environmental Quality Board under §307 of the LLRW Act. The application shall also be accompanied by nonrefundable application fee of one million dollars (\$1,000,000.00). The application fee shall be deposited by the City to a special account and shall be used solely for the purposes of the administration of the City.
 - B. An application for an operating permit under this Part shall contain the following documentation:
 - (1) A site plan identifying the location and function of all structures on the waste site.
 - (2) Proof of ownership of the site or a contract conveying rights to the site by the owner.
 - (3) A property survey of the site by a registered licensed surveyor showing contours of five (5) foot intervals, description of perimeter land use and zoning within a two (2) mile radius of the site and proximity to any structure or other feature such as stream or well, within one thousand (1,000) feet of the waste site.
 - (4) All necessary licenses and permits from local, State and Federal agencies, along with the associated application materials submitted to those agencies.
 - (5) A proposed emergency control and evacuation procedure plan, subject to such amendments and additions as the City may designate after public hearing.
 - (6) An environmental impact study as defined in the N.E.P.A. §102(2)(c), 42 U.S.C. §4332, which shall also include, but not limited to, consideration of the following: site dedications; oil, gas and mineral rights; hydrology of the site, ground water, aquifers; fauna habitat and migratory survey; storage of fuel; security police, fire and medical quali-

fications; a radiation background study based on monthly sampling data for three (3) years prior to the date of application; meteorology, topology and predicted deposition patterns of airborne pollution; an assessment of risk of experiencing one (1) fatality per one million (1,000,000) population, which must include calculations of maximum concentrations of contamination under emergency conditions, such as a worst case accident scenario or the failure of an air pollution control unit and such other factors as the City of St. Marys Council may from time to time determine.

- (7) Baseline health studies of the entire population of the City and of the affected municipalities within a ten (10) mile radius shall be conducted for three (3) years prior to the date of application. All data shall be made available, free of charge, to the City Council and any member of the public upon request.
- (8) An evaluation of the quantity and nature of all wastes to be stored at the waste facility, including the chemical and physical forms, specific isotopes, number of curies and half-lives.
- (9) An evaluation of the financial qualifications of the applicant, operator and any major subcontractors or participants whose activities will impact operations of the site.
- (10) A compliance history for the applicant and operator of the site performed by an independent agency acceptable to the City but at the sole cost of the applicant.
- (11) The site characterization documents prepared by DER and Chem Nuclear, showing specifically how the site satisfies all criteria in 25 Pa. Code, Chapter 236.

3. Application Processing.

- A. The siting permit application shall be submitted to the Environmental Control Officer, who shall review the same to determine whether the application contains all of the necessary documents and the application fee. If the application is not complete, the Environmental Control Officer shall return the application to the applicant with a written notification of its deficiencies. If the application is complete, the Environmental Control Officer shall refer the application to the Environmental Advisory Council, with copies to the City Council, the County Planner, County Solid Waste Coordinator, Elk County Solid Waste Authority, Elk County Soil Conservation District, the County Emergency Management and Communications Control Officer. When the application is deemed complete, the applicant shall also file a complete copy thereof in the St. Marys public library and in the Elk County Law Library for public inspection. No hearing on an application shall be

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held until the application has been filed for a period of at least sixty (60) days.

- B. After review and study of the application, the Environmental Advisory Council shall submit its findings and recommendations to the City Council.
 - C. The City Council shall give due consideration to the findings and recommendations of the Environmental Advisory Council but shall not be bound thereby.
 - D. The Environmental Advisory Council and the City Council may hold public hearings on each application. The applicant shall appear at all such public hearings and shall provide such documentation and such persons with technical expertise, at the applicant's expense, as may be necessary to answer all reasonable inquiries made by the Environmental Advisory Council, the City or members of the public present at the public hearings.
 - E. The Environmental Advisory Council and the City may engage the services of whatever expert consultant deemed necessary to properly and fully evaluate the application. The reasonable fees and expenses of these consultants shall be paid by the applicant.
 - F. The City Council shall take action on the application within ninety (90) days after the decision on the potentially suitable sites application is made by the Environmental Quality Board. Notwithstanding the foregoing, the City Council shall not be required to take action on a permit application until the applicant has fully complied with §318(f) of the LLRW Disposal Act and the funding scheme has been approved by the designated host municipalities.
4. Minimum Site Requirements. The minimum requirements for the waste site shall be:
- A. The site shall have geological characteristics such that all applicable State and Federal emission requirements may be met without the use of dedicated engineered barriers, other than the entrance described in §306(4)(B) of this Part.
 - B. There shall be no active, inactive or other water wells, gas or oil wells, brine wells or other underground storage areas on the waste site.
 - C. Surface features of the waste site shall be designed to direct water drainage away from waste units at velocities and gradients which will not result in erosion. No water shall drain from the waste site to any offsite location or into any aquifer without the permission of the Environmental Control Officer. Water shall be collected into an appropriate holding facility until tested safe for drinking purposes.

- D. No waste site (including the buffer zone) shall be located in recharge zones for sources of local public or private drinking water, headwaters of any waterway, wetlands, floodplains or habitats of endangered, threatened or special concern species, including elk.
- E. No waste site shall be located within an agricultural security area as designated pursuant to the Agricultural Security Law, Act of June 30, 1981, P.L. 128, Act No. 43, as from time to time amended.
- F. The waste site shall meet all requirements of Federal and State laws and regulations and the qualifications contained in the evaluation screening manual.
- G. The site shall not contain any limestone or similar formation. Such a formation cannot be removed to meet the requirements that make a site suitable for a LLRW facility.

(Ord. 71, 8/18/1997, Art. V)

§306. Operation.

1. Prohibition. No waste facility shall be constructed or operated within the City unless an operating permit is first obtained pursuant to this Part and all required fees have been paid.
2. Application. When an operator submits a license application to the Department, the operator shall simultaneously make application to the City for an operating permit under this Part. The application shall be on a form provided by the City and shall be accompanied by a nonrefundable application fee of three million dollars (\$3,000,000.00). The application shall be accompanied by a complete copy of the license application filed with the Department. The application shall state the chemical and physical forms, specific isotopes, half life and number of curies of each substance expected in the radioactive air emissions, along with the appropriate formulas for calculating the weight equivalent to one (1) curie and the number of millirems associated with potential exposures to one (1) curie of each substance. The application fee shall be deposited by the City into a separate account and shall be used solely for purposes of administration of this Part.
3. Processing Procedure.
 - A. The application for an operating permit shall be filed with the Environmental Control Officer. The Environmental Control Officer shall review the application to determine whether it is complete and in full compliance with this Part. If it is not complete, the officer shall return the application to the operator with written notification of its deficiencies. If the application is complete, the Environmental Control Officer shall refer the application to the Environmental Advisory Council, with copies to the City Council, the

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City Planner, County Solid Waste Coordinator, Elk County Solid Waste Authority, Elk County Soil Conservation District, the County Emergency Management and Communications Control Officer. The applicant shall provide all necessary copies and shall file complete copies of the application in the Elk County Law Library and the St. Marys public library.

- B. The Environmental Advisory Council shall evaluate the application and prepare and submit to the City Council its findings and recommendations thereon.
 - C. Upon receipt of the findings and recommendations of the Environmental Advisory Council, the City Council shall further review the application and prepare and submit findings and recommendations to the Department for inclusion in the licensing proceeding.
 - D. The Environmental Advisory Council and the City Council shall each hold at least one (1) public hearing on the application. The operator shall attend all such public hearings and shall provide such documentation and technical expertise as the hearing body may deem necessary to fully answer all of the reasonable inquiries to the Environmental Advisory Council, the City or any members of the public who attend the hearings.
4. Design Standards. Every waste facility subject to this Part shall meet the following minimum design requirements:
- A. The waste facility shall be designed for zero (0) release of radioactive waste in the form of effluents and shall not permit liquid or gaseous infiltration or emissions through any engineered cover, bottom, side or entrance.
 - B. The waste facility shall be an above-ground facility mounded with earth and capped for tornado protection with a sealed entrance permitting access so that leaking containers can be easily and safely located and removed.
 - C. Neither the container nor the waste modules are to be covered by any type of fill that would cause loss of integrity of the containers or the waste modules if recovery of the waste is undertaken.
5. Minimum Operating Standards. Every waste facility subject to this Part shall be operated in conformance with each of the following standards:
- A. No radioactive emissions into the outdoor atmosphere from a waste site shall exceed, or cause exposures which exceed, applicable Federal, State law or regulation established by the City Council or by this Part.
 - B. The waste facility must be designed and operated to achieve containment for the hazardous life of the waste. Prior to construction, the waste facility design shall be modeled and analyzed to demonstrate that its performance and its interaction with the environment at the waste site are consistent

with this Part. The facility design shall demonstrate that radioactive waste containment can be maintained for any maximum disruptive external event.

- C. The waste facility design and operation must be upgraded from time to time as safer technologies are devised and satisfactorily demonstrated, as determined by the City Council.
- D. The operator shall perform active and passive monitoring which shall detect any release of radioactive substances into the buffer zone or monitoring zone, as well as releases from waste modules, waste units and from the waste site for the institutional control period. The operator shall provide the Environmental Control Officer with continuous verification of its performance with these monitoring requirements and permit the Environmental Control Officer access to the monitoring equipment without prior notice. The City may require the operator to install a parallel monitoring system to be operated by the City at the operator's expense.
- E. The waste facility shall accept only waste with those physical and chemical properties for which it is designed and which it is capable of containing for the hazardous life of the waste. All facility records shall be retained for the institutional control period. Complete copies of all facility records shall be forwarded to the Environmental Control Officer no later than the tenth day of each month, for the prior month or as requested. Where the facility encounters radiation readings in excess of allowable limits, the Environmental Control Officer shall be notified within two (2) hours.
- F. All classes of waste shall be segregated from each other unless they were mixed as they were generated. Classes of wastes A, B and C and mixed wastes, as defined in 10 CFR §61.55 (1989), shall be contained for their full hazardous lives. No waste greater than Class C shall be accepted even though it may have been diluted to a lower level of radioactivity.
- G. No radioactive materials generated outside the Appalachian compact states and not designated as waste prior to shipment into Pennsylvania or other compact states, but thereafter declared to be waste, shall be disposed of or stored in the City. No waste generated outside the United States shall be disposed of or stored in the City, even if the company generating the waste has its corporate headquarters, is incorporated, has offices or receives such waste at its facilities or through a port of entry in one (1) of the Appalachian compact states.
- H. In the event that radioactive substances from the waste facility contaminate any area outside the waste site, the operator shall promptly clean up all contamination and shall restore all such contaminated areas to their preexisting and noncontaminated state.

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- I. No LLRW facility shall accept waste for more than thirty (30) years. No additional radioactive waste shall be stored, disposed of or treated anywhere in the City after that thirty (30) year period.
 - J. Routine operations of the waste facility shall be conducted solely between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Fridays, excluding legal holidays.
 - K. No waste shall be accepted on the site except between the hours of 9:00 a.m. and 5:00 p.m., Monday through Fridays, excluding legal holidays.
 - L. The waste facility shall at all times be operated in strict compliance with all applicable laws and regulations of all Federal, State and local government agencies having jurisdiction over the site.
6. Air Pollution Control Standards. Every waste facility shall comply with the following minimum standards:
- A. No radioactive substance or waste generated by any government agency or pursuant to a Federal or State government contract or license nor as defined in the Nuclear Regulatory Commission (NRC) §11(e)(2) of the Atomic Energy Act of 1954, codified as amended at 42 U.S.C. §2014(e)(2), in the Low Level Radioactive Waste Policy Act Amendment of 1985 and in effect as of January 1, 1986, or in the LLRW Act that may be redefined as an expanded exemption, below regulatory concern (BRC) or otherwise deregulated by the NRC or any other Federal agency shall be received for treatment, recycled, incinerated, deposited in sewers or accepted at any solid, liquid or hazardous waste facility. All LLRW as specified above shall be deposited at a LLRW facility holding an operating permit under this Part.
 - B. No operator shall cause or permit the direct or indirect release of radioactive substances into the air, whether in gaseous, particulate, mist, vapor or other form or through any pathway, except in compliance with air pollution control standards included in the operating permit obtained under this Part.
 - C. No operating permit shall be granted under this Part where the Environmental Advisory Council determines that the expected radioactive air emissions stated in the application will exceed zero (0).
7. Emergency Management Plan. The operator shall develop, maintain and regularly upgrade a plan for responding to all reasonably anticipated emergency events which might occur at the waste facility or outside the waste facility due to an event occurring within the facility or en route to or from the facility. The operator shall provide the Environmental Control Officer and the County Emergency Management and Communications Control Office with a copy of the plan, as well as all amendments and updates. The operator shall provide the Environmental Control Officer with evidence satisfactory to the Officer that the operator has reviewed its emergency management plan on at least a quarter-annual basis.

The plan shall also coordinate services of those fire, police and ambulance services as are likely to first respond to the emergency, as well as the City emergency management planning, training and central dispatch facilities as may be required to support the handling of any anticipated emergency event at the facility.

8. Disclosure of Transporters. The operator shall provide the Environmental Control Officer no later than the tenth day of each month for the prior month with a list of the names and business addresses of all persons, firms or corporations which provide transportation of waste facility, including a copy of all manifests. The Environmental Control Officer may request and the operator shall provide, such information on a more frequent basis if the Officer deems it necessary. Copies of all monthly reports shall also be provided to the Director of the Elk County Emergency Management and Communications Control Office, Elk County Solid Waste Coordinator and the Elk County Solid Waste Authority, the City Planner and the Elk County Law Library.
9. Access to Records. All required records and facility records shall be available for inspection by the Environmental Control Officer and the inspectors at all times. The operator shall provide the Environmental Control Officer and the inspectors with reasonable assistance in locating, identifying and reviewing all information contained in all such records.
10. Liability Insurance. The operator shall provide and maintain, continuously in effect, a policy of general liability insurance, including liability for personal injury or property damage resulting from any release of any waste into any part of the environment, in the minimum amount of ten million dollars (\$10,000,000.00) per occurrence. The operator shall provide the Environmental Control Officer with certificates showing regular renewal of such insurance at least thirty (30) days prior to the renewal date. The City shall be identified in all such policies as a party to be notified of any cancellation, expiration or change in such policies.

(Ord. 71, 8/18/1997, Art. VI)

§307. Studies and Evaluations.

1. Bonding.
 - A. At the time of making an application for a siting permit under this Part, the applicant shall submit a bond, in a form and with security approved by the City, in the principal sum of one hundred thousand dollars (\$100,000.00) to guaranty reimbursement by the applicant of all reasonable expenses incurred by the City to evaluate the potentially suitable sites application and the application for the siting permit, as provided under §318(a) of the LLRW Act, to the extent that such expenses are not funded by the Department.
 - B. At the time of submission of an application for an operating permit, the applicant shall submit a bond, in a form and with security approved by the

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City, in the principal sum of one hundred fifty thousand dollars (\$150,000.00) to guaranty reimbursement of all reasonable expenses incurred by the City to conduct an independent evaluation of the license application under §318(b) of the LLRW Act and the operating permit application under this Part, to the extent that funds are not provided by the Department.

2. Reimbursement. The operator shall reimburse the City in full for all reasonable expenses including, but not limited to, engineering and expert fees, reasonable attorney fees and all out-of-pocket expenses incurred by the City to perform the studies and evaluations provided under this Part and under §318 of the LLRW Act within thirty (30) days after submission of a requisition for reimbursement to the operator.
3. Nonpayment of Requisitions. No permit required under this Part shall be issued by the City until all requisitions submitted under §307(2) of this Part have been paid in full by the operator.

(Ord. 71, 8/18/1997, Art. VII)

§308. Penalties and Remedies.

1. Penalties. Any person who violates any of the provision of this Part or who owns or operates a waste facility in which any violation of this Part is committed shall, upon conviction in a summary proceeding, be liable for a penalty of not more than one thousand dollars (\$1,000.00) for each separate offense and in default thereof shall be imprisoned for a term of not more than ninety (90) days. Each day that a violation continues shall constitute a separate offense. Each type of violation shall also be considered a separate violation.
2. Civil Penalty.
 - A. Whenever an operator has been notified in writing of a violation of this Part which involves a significant threat of harm to human life, the operator shall immediately cease and desist in such violation. If the operator does not immediately cease and desist, the operator shall be liable to the City for a civil penalty not exceeding one hundred thousand dollars (\$100,000.00) for each offense and for each day that such offense continues.
 - B. This provision is not intended to affect the operator's liability for consequential or punitive damages for any violation.
3. Abatement.
 - A. The violation of any of this provisions of this Part relating to the emission of pollutants into the environment surrounding the waste facility shall be considered a public nuisance and a nuisance per se. The operator shall abate

such nuisance immediately upon notice from the Environmental Control Officer.

- B. In addition to the other remedies provided in this Part, the Environmental Control Officer and the City shall have the right to pursue injunctive relief to abate any such nuisance.
4. Reimbursement of Litigation Costs. By applying for a permit under this Part, the operator agrees to reimburse the City in full for all reasonable attorney's fees, expert's fees, investigative and litigation costs incurred by the City in the successful prosecution of any violation of this Part or the successful pursuit of any other legal remedy provided under this Part.
 5. Termination of Permits. If the operator is delinquent in the payment of any surcharge collections for a period of thirty (30) days or if the operator is in default of any of the other provisions of this Part, after notice and a reasonable opportunity to cure such default, the Environmental Control Officer or the City shall have the right to revoke the permit.
 6. Citizen Suits. Nothing in this Part shall be construed to limit the right of private citizens of the Commonwealth to pursue any civil action against the operator in the manner provided by law.

(Ord. 71, 8/18/1997, Art. VIII)

Part 4

Storage of Inoperable Motor Vehicles

§401. Definitions.

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LESSEE – owner, for the purpose of this Part, when the lessor holds the lessee responsible for the maintenance and repairs.

MOTOR VEHICLE – any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semi-trailers pulled thereby.

NUISANCE – any condition, structure or improvement which shall constitute a danger or potential danger to the health, safety or welfare of the citizens of the City of St. Marys.

OWNER – the actual owner, agent or custodian of the property on which motor vehicles are stored whether individual or partnership, association or corporation.

PERSON – a natural person, firm, partnership, association, corporation or other legal entity.

(Ord. 210, 8/22/2005, §I)

§402. Motor Vehicle Nuisances Prohibited.

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the City of St. Marys. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and/or has any of the following physical defects:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body part which could permit animal harborage.
- D. Any body parts with sharp edges, including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.

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- F. Upholstery which is torn or open, which could permit animal and/or vermin haborage.
- G. Broken head lamps or tail lamps with sharp edges.
- H. Disassembled chassis parts, apart from the motor vehicle, stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floor boards, including trunk and fire wall.
- O. Damaged bumpers pulled away from the perimeters of vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennae.
- S. Suspended or unstable supports.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of the City of St. Marys.

(Ord. 210, 8/22/2005, §II)

§403. Storage of Motor Vehicle Nuisances Permitted.

1. Any person, owner or lessee who has one or more motor vehicle nuisances as defined above may store such vehicle(s) in the City of St. Marys only in strict compliance with the regulations provided herein. Such person, owner or lessee must first apply for a permit for either temporary or permanent storage and pay a fee to the City of St. Marys pursuant to a resolution of the Council. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or outside within an opaque fence at least six (6) feet high which is locked at all times when unattended.

2. With the special approval of the Council, motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six (6) feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free from vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed three hundred fifty (350) square feet.
3. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of the City of St. Marys Zoning Ordinance.¹

(Ord. 210, 8/22/2005, §II)

§404. Inspection of Premises; Notice to Comply.

1. The City Manager is hereby empowered to inspect private property on which motor vehicles are stored to determine if there is compliance with the provisions of this Part. If noncompliance with the provisions of this Part constitutes a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, he shall issue a written notice to be served by registered or certified mail, upon the owner of said premises or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
2. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter to fully comply with the requirements of the notice within a reasonable time.

(Ord. 210, 8/22/2005, §III)

§405. Authority to Remedy Noncompliance.

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the nuisance, within the time limit prescribed, the City of St. Marys shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The City of St. Marys, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

(Ord. 210, 8/22/2005, §IV)

¹ Editor's Note: See Ch. 27, Zoning.

§406. Hearing.

1. Any person aggrieved by the decision of the City Manager may request and shall then be granted a hearing before the Council, provided that he files with the Council within ten (10) days after notice of the City Manager's decision a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.
2. After such hearing, the Council shall sustain, modify or overrule the action of the City Manager.

(Ord. 210, 8/22/2005, §V)

§407. Penalties.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than three hundred dollars (\$300.00) and, in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 210, 8/22/2005, §VI)

§408. Remedies Not Mutually Exclusive.

The remedies provided herein for the enforcement of this Part, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Council.

(Ord. 210, 8/22/2005, §VII)