

DEPARTMENT OF LICENSES AND INSPECTIONS <b>CODE BULLETIN OF INFORMATION</b> <b>No.F-0903</b>		CODE OF GENERAL ORDINANCES OF THE CITY OF PHILADELPHIA
		TITLE 4 — BUILDING CONSTRUCTION AND OCCUPANCY CODE
SUBJECT OF BULLETIN:  <b>PREEMPTIONS RAISED BY THE PROPANE AND LIQUEFIED PETROLEUM GAS ACT</b>		REFERENCE CODE SECTION(S):  F-3804
FOR: Commercial and Industrial Fire Unit      Business Compliance Permit Services                                  District Operations		ISSUE DATE:  7/9/09
ISSUED BY		REVISION DATE(S):
NAME:  Michael Fink	SIGNATURE	
TITLE: Chief Code Official, Department of Licenses and Inspections		PAGE 1 OF 2

## ISSUE:

In 2002, the Commonwealth of Pennsylvania passed Act 61, the Propane and Liquefied Petroleum Gas (LPG) Act, preempting municipalities from regulating LPG installations, except for restrictions related to zoning requirements. This preemption is stated in Section 15 of the Act and was reaffirmed in a ruling by the Court of Common Pleas of Monroe County.

Act 61 raises two fire safety issues for the City of Philadelphia.

- 1) The Act indicates that an installation must meet national standards (National Fire Protection Association Standards 54 and 58), plans must be submitted and approved, and a permit must be obtained prior to installation. It makes no mention of an inspection following installation to ensure compliance with required standards.
- 2) The Act does not regulate all LPG installations. While covering distributors, bulk plants, and industrial users (all with total storage capacity exceeding 2,000 gallons water capacity), it does not regulate installations of 2,000 gallons water capacity or less, except those where there is “just cause to believe there is a threat to public safety”.

In consultation with the Law Department, it was determined that the City is free to enforce zoning use restrictions that may prohibit placement of LPG facilities, but that it can not adopt or enforce regulations establishing conditions on registration, sale, transfer, and storage. As a result, it is important to establish ways in which the City can assume greater control in this area without conflicting with State authority.

## PURPOSE:

For public convenience and to ensure consistency and proper enforcement, this Code Bulletin outlines the limitations on the Department of Licenses & Inspections in

accordance with the Act. Further, it notes actions the Department may take so as to promote fire safety through all means under its rightful authority.

**POLICY:**

As per Act 61, the Department will leave all non-zoning-related regulations and enforcement action to the State's Department of Labor and Industry. The State will require registration of distributors/bulk plants/industrial users, directly regulate the transfer and transportation of all sizes of LPG tanks and cylinders, inspect with cause any privately-owned container with capacity in excess of 470 pounds, and impose regulations that apply to smaller containers.

While the above actions broadly pertaining to installation are reserved by the State, the Department reserves the right to enforce all other provisions of the International Fire Code, such as those pertaining to maintenance and safety.

For example, Section 3804.1 of the International Fire Code, in addition to requiring local approval of the installation of LPG equipment, also requires local approval in connection with the maintenance of such equipment. Therefore, the Department is free to take the position that LPG-related maintenance and safety provisions of the IFC, which the City has incorporated into the Philadelphia Fire Code, remain in force and are not preempted by Act 61.

As determined by the Law Department and approved by the Commissioner, the Department is also free to take the following positions and/or actions:

- 1) As previously stated, the Department shall enforce zoning use restrictions that may prohibit placement of LPG facilities in a zoning district where such a use is not permitted, such as a residentially-zoned district.
- 2) The Department may report to the State any LPG-related activities and installations that concern the City and proceed to evaluate and monitor these activities for the purpose of providing information. It may also accept from the Fire Department a list of operators who voluntarily submitted plans to them and monitor these at its discretion.
- 3) Where an LPG installation is part of a larger project subject to City approval, and the standards for granting such approval require demonstration of compliance with applicable laws of the Commonwealth that relate to the project, the City may require proof of State approval of the LPG installation before approving the larger project.
- 4) The Department reserves the right to revoke City-issued licenses or operation permits of those operators found in violation by the State.