

PART 1

NUISANCES ON PRIVATE AND PUBLIC PROPERTY

§101. DEFINITIONS.

For the purpose of this Part, the following words and phrases together with their derivations shall have the meaning ascribed to them in this Section:

ABANDONED MOTOR VEHICLE - a motor vehicle:

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

BOROUGH - the Borough of New Stanton, Westmoreland County, Pennsylvania.

COUNCIL - the Borough Council of the Borough of New Stanton, Westmoreland County, Pennsylvania.

GARBAGE - any putrescible animal and vegetable waste including, but not limited to, offal, pomace, dead animals and decaying organic matter.

JUNK MOTOR VEHICLE - a motor vehicle:

- A. That is without a valid registration plate or valid and current inspection; and,
- B. Is unable to move under its own power or has not been moved for a period of 30 days.

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 semitrailers pulled thereby.

NUISANCE - any activity, conduct or condition which causes injury, damage, hurt, inconvenience, annoyance or discomfort to the public or such part of the public as necessarily comes in contact with such activity, conduct or condition and which adversely affects the safety, health, morals or general welfare of the same, including aesthetics.

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OWNER - a person owning, leasing, occupying or having charge of any premises within the Borough.

PREMISES - any real property, building or structure.

RUBBISH - any nonputrescible waste, either solid, liquid or a combination thereof including, but not limited to, scrap wood, glass, metal, plastic, paper, stone, concrete or clay items.

(Ord. 86-124, 4/17/1986, §1)

§102. NUISANCES PROHIBITED.

It shall be unlawful for any person to create or maintain, either directly or indirectly, a nuisance within the Borough. Nuisances shall include, but are not limited to, the following:

- A. The existence of abandoned motor vehicles.
- B. The presence, outside of a building or fully enclosed structure of one or more junk motor vehicles; except that, the owner of such premises or the owner, operator or custodian of such junk motor vehicle, who has the same for the bona fide purpose of repair of such motor vehicle, may store or park said vehicle, outside of a building or fully enclosed structure, for a period not in excess of 30 days from the time said vehicle is first brought upon said property; provided, a permit is first obtained from the Ordinance Officer of the Borough; and, further provided, that such person may have no more than one permit for the repair of junk motor vehicles at any one time, nor can more than one permit be issued for a junk motor vehicle. The fee for such permit shall be as established from time to time by resolution of Borough Council. [Ord. 97-173]
- C. The presence of any garbage which shall or may afford food, harborage or breeding areas for vectors unless the same is kept in covered receptacles designed and manufactured for the storage of such items; and, further provided, that the same shall remain on said premises for a period of no longer than 10 days.
- D. The presence of rubbish which by its nature or due to its storage has sharp or protruding edges or parts which pose a present or potential hazard to any person.
- E. The storage or placement of equipment, rubbish, machinery, material, vehicles or any parts thereof in any manner which would allow the same to easily shift, tilt or fall from such position.
- F. The draining or allowing to drain by natural or artificial means, any foul or offensive liquid of any kind, from any premises into, upon or along any other premises, public right-of-way or public lands, except where provision has been made for the lawful drainage of such liquid in such manner and at such place.

The existence of such drainage prior to the passage of this Part shall not make such activity or condition lawful.

- G. Maintaining, causing to be maintained or permitting the existence of any dangerous building, structure or physical condition on any premises.
- H. Pushing, shoveling or otherwise depositing snow, ice, mud, rocks, earth, manure, animal waste, cut vegetation or any combination thereof upon the cartway or traveled portion of any highway, road, street or alley maintained by the Borough, County or Commonwealth.

(Ord. 86-124, 14/17/1986, §2; as amended by Ord. 97-173, 2/6/1997)

§103. ENFORCEMENT, SERVICE OF NOTICES AND ORDERS; HEARINGS.

1. Whenever the Council determines that there are reasonable grounds to believe that there has been a violation of any provision of this Part, they shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:
 - A. Be put in writing.
 - B. Include a statement of the reasons why it is being issued.
 - C. Allow a reasonable time for the performance of any act it requires.
 - D. Be served upon the owner or his agent, or the occupant, as the case may require; provided, that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is posted in a conspicuous place in or about the premises affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this State.
 - E. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Part.
2. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this Part, may request and shall be granted a hearing on the matter before the Council; provided, that such person shall file with the Borough Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. Upon receipt of such petition the Council shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 20 days after the day on which the petition was filed.
3. After such hearing the Council shall sustain, modify or withdraw the notice. If the

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Council sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Part shall automatically become an order if a written petition for a hearing is not filed with the Secretary within 10 days after such notice is served.

4. Whenever the Council finds that an emergency exists which requires immediate action to protect the public health, safety, morals or general welfare, they may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as they deem necessary to meet the emergency. Notwithstanding the other provisions of this Part, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Council such person shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Part have been complied with, the Council shall continue such order in effect, or modify it, or revoke it.

(Ord. 86-124, 4/17/1986, §3)

§104. PENALTIES.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, upon 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. 86-124, 4/17/1986, §4; as amended by Ord. 97-173, 2/6/1997)

§105. CONFLICT OF ORDINANCES.

In any case where a provision of this Part is found to be in conflict with a provision of any ordinance existing on the effective date of this Part, the provision which establishes the higher standard for the promotion and protection of the health, safety, morals and general welfare of the people shall prevail. In any case where a provision of this Part is found to be in conflict with a provision of any other ordinance existing on the effective date of this Part which establishes a lower standard for the promotion and protection of the health, safety, morals and general welfare of the people, the provisions of this Part shall be deemed to prevail and such other ordinances are hereby declared to be repealed to the extent that they may be found in conflict with this Part.

(Ord. 86-124, 4/17/1986, §5)

§106. PUBLIC NUISANCE ABATEMENT.

In addition to the penalties heretofore set forth in this Part, any activity, conduct or condition occurring or existing in violation of this Part is hereby declared to be a public nuisance. The Borough is authorized to require the removal of any such nuisance by the owner or occupier

of the premises upon which such nuisance exists. If the owner or occupier fails, neglects or refuses to remove any such nuisance after being ordered to do so by the Borough, the Borough may cause the same to be done, and collect the cost thereof, together with a penalty of 10% of such cost, in the manner provided by law for the collection of municipal claims, or by an action of assumpsit, or the Borough may seek relief in equity.

(Ord. 86-124, 4/17/1986, §6)

§107. AUTHORITY.

This Part is adopted pursuant to §702 of the Borough Code, 53 P.S. §46702.

(Ord. 86-124, 4/17/1986; as added by Ord. 97-173, 2/6/1997)