

Chapter 106 NUISANCES

§ 106-1. Legislative findings.

§ 106-4. Abatement.

§ 106-2. Definitions.

§ 106-5. Enforcement; compliance.

§ 106-3. Illegality of nuisances.

§ 106-6. Violations and penalties.

[HISTORY: Adopted by the Borough Council of the Borough of Shippensburg 4-4-1989 by Ord. No. 569, approved 4-4-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 78.
Fire prevention — See Ch. 92.

Garbage, rubbish and refuse — See Ch. 99.
Noise — See Ch. 105.

§ 106-1. Legislative findings.

The Borough Council of the Borough of Shippensburg, Cumberland and Franklin Counties, Pennsylvania, finds that removal of nuisances is in the interest of the citizens of the Borough and that removal of nuisances on public and private property promotes the public health, safety and welfare of all residents of the Borough.

§ 106-2. Definitions.

For the purposes of the chapter, the following terms, phrases and words and their derivatives shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

ABANDONED MOTOR VEHICLE — Any motorized vehicle which is without a currently valid license plate or plates and/or is in a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. **[Amended 10-4-1994 by Ord. No. 640, approved 10-4-1994]**

DANGEROUS BUILDING **[Added 7-15-1997 by Ord. No. 679, approved 7-15-1997]** — Any building, structure or portion thereof which threatens the life, health, safety or property of the public or its occupants by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disasters, damage or abandonment. The conditions which may cause a structure to be classified as a "dangerous building" include but are not limited to the following:

- A. The walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise is unsafe as not to provide a safe and adequate means of exit in case of fire or panic.

- B. Any portion, section or appurtenance of the building or structure has been damaged by fire, wind, flood or by any other cause to such an extent that it is likely to partially or completely collapse, fail, detach or dislodge.
- C. The building or structure, or any part thereof, because of dilapidation, deterioration or decay; or faulty construction; or the removal, instability or movement of any portion of ground necessary for the purpose of such building; or the decay, deterioration or inadequacy of its foundation; or any other cause is likely to partially or completely collapse.
- D. The building or structure has been so damaged by fire, wind, flood or other causes or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor of transients or vagrants.
- E. The building or structure used or intended to be used for dwelling purposes is unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or other cause.
- F. The building or structure creates a fire hazard by virtue of its obsolescence, dilapidation conditions, deterioration, damage or other cause.
- G. Any portion of the building, including the foundation, slab or grade, or structure remains on a site after the demolition or destruction of the building or structure.

ATTRACTIVE NUISANCE — A condition, instrumentality, machine or other agency which is maintained on premises and which is dangerous to young children because of their inability to appreciate peril and may reasonably be expected to attract them to premises. [Added 7-15-1997 by Ord. No. 679, approved 7-15-1997]

ENCLOSED — Having a wall or walk, window or windows and a door used as access to the dwelling.

NUISANCE — Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following:

- A. Junk, trash or debris including but not limited to all waste, refuse and discarded materials having only a junk or salvage value, and garbage not contained in a safe sanitary and orderly manner in a proper container for collection. [Amended 12-17-2002 by Ord. No. 764, approved 12-17-2002]
- B. Abandoned, discarded or unused objects or equipment such as motor vehicles, furniture, stoves, refrigerators, freezers, cans or containers.
- C. Maintaining or causing to be maintained, any dangerous structures, including but not limited to abandoned, occupied or unoccupied buildings or parts of buildings.
- D. Maintaining or causing to be maintained upon any unenclosed porch or exterior attachment, which faces a regularly traveled thoroughfare, furniture, other than

furniture designed for exterior use, which is commonly intended for use inside a dwelling, including but not limited to upholstered sofas, chairs, davenports, beds, divans and the like.

- E. The use of a porch roof or other second story or higher portion of a structure for a nondesigned use, unless said porch roof or other portion of a structure is specifically designed for said use.
- F. Weeds, grass or other uncultured vegetation not edible or planted for some useful or ornamental purpose, more than 10 inches in height when measured from the surface of the ground, provided that weed growth on lawns occurring between mowings shall not constitute a nuisance. [Added 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- G. Trees, shrubs, hedges or other vegetation overhanging sidewalks or other pedestrian walkways at a height less than eight feet. [Added 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- H. Trees, shrubs or other vegetation overhanging a road right-of-way at a height of less than 16 feet, measured from the street surface at the curb. [Added 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- I. Garbage, garbage containers, trash stored in the front of a building on a porch or front yard, except for the 24 hours immediately prior to the regularly scheduled collection of trash. [Added 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- J. Maintaining more than one unregistered or uninspected motor vehicle(s) on a lot, except for properly licensed new or used car dealers. [Added 10-4-1994 by Ord. No. 640, approved 10-4-1994]

OWNER — A person giving, leasing, occupying or having charge of any premises within the Borough.

PERSON — Any natural person, firm, partnership, association, corporation, company or organization of any kind.

PORCH or EXTERIOR ATTACHMENT — Any area attached to or appended to a building regularly used for dwelling.

PORCH ROOF — A roof at the second story or above on any building, which extends over an unenclosed area.

REGULARLY TRAVELED STREET — Any street, alley or thoroughfare on which one or more motor vehicles travel during any twenty-four-hour period.

§ 106-3. Illegality of nuisances.

Nuisances, as defined herein, are hereby declared to be illegal.

§ 106-4. Abatement.

- A. Abatement of nuisance by owners. The owner, owners, tenants, lessees and/or occupants of any lot within the Borough upon which a nuisance is found to exist and also the owner, owners and/or lessees of said personalty involved in such storage (all of whom are hereafter referred to as "owners") shall jointly and severally abate said nuisance by the prompt removal of said nuisance.
- B. Abatement of nuisance by Borough. Whenever said owner(s) shall fail to abate said nuisance, the Borough shall take such action as is necessary to abate said nuisance without liability for damage to the property. The actual costs of abating said nuisance, including actual labor charges, equipment rental charges, postage and 25% of the costs for administrative overhead, plus 50% of the total, shall be collected from the owner of the premises either by an action in assumpsit or by the filing of a municipal claim or lien against the said real property. In addition to the above the Borough may, by an action in equity, compel the owner to comply with this chapter or take such other relief as a court may order. [Amended 7-19-1994 by Ord. No. 635, approved 7-19-1994]

§ 106-5. Enforcement; compliance.

- A. Whenever a condition constituting a nuisance is permitted or maintained upon premises situate in the Borough, the Borough Manager, or the Chief of Police pursuant to Subsection H infra, shall cause written notice to be served upon the owner in one of the following ways: [Amended 12-17-2002 by Ord. No. 764, approved 12-17-2002]
- (1) By personal delivery of the notice to the owner, tenant or lessee of the premises.
 - (2) By leaving the notice with an adult upon the premises.
 - (3) By attaching a copy of the notice to the door at the entrance of the premises in violation.
 - (4) By mailing, by certified mail, a notice to the last known address of owner.
- B. Such notice shall set forth in what respects such conditions constitute a nuisance and whether removal is necessary and required by the Borough or whether the situation can be corrected by repairs, alterations or by boarding or fencing or in some other manner confining and limiting the nuisance.
- C. Such notice shall require the owner(s) to commence action, in accordance with the terms thereof, within seven days of the date of the notice, and thereafter to complete the work necessary to comply fully with the terms of the notice as soon as is reasonable, but not later than 60 days from the date of said notice, provided that the owner(s) has requested such an extension within the original term for compliance. [Amended 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- D. The expense of said compliance shall be at the expense of the owner; provided, however, that if a violation requires immediate correction, such notice shall require the owner to immediately comply with the terms thereof.

- E. Notice required under § 106-5A shall be given one time during a calendar year. [Added 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- F. Each day shall constitute a separate violation of this chapter. [Added 7-19-1994 by Ord. No. 635, approved 7-19-1994]
- G. Whenever a condition allegedly constituting a dangerous building shall remain unabated following notice by the Borough in accordance with § 106-4, then the Borough shall institute proceedings to have the building or structure declared a dangerous building and the nuisance abated. The procedure to be followed shall be adopted by the Council and Mayor of the Borough of Shippensburg by resolution. [Added 7-15-1997 by Ord. No. 679, approved 7-15-1997]
- H. If the Chief of Police of Shippensburg Borough or his designee determines that any person, partnership, association or corporation is or has allowed a nuisance, as defined in § 106-2 under "Nuisance" Subsections A and I regarding junk, trash or debris and garbage containment and collection, to occur, the Chief of Police shall cause written notice as set forth in § 106-5A to be sent to the violator to voluntarily abate and remove the nuisance within 24 hours thereof. If the violator has not abated or removed the nuisance within 24 hours after receipt of said written notice, the Chief of Police may initiate legal proceedings against such violator in the office of the appropriate District Justice. [Added 12-17-2002 by Ord. No. 764, approved 12-17-2002]

§ 106-6. Violations and penalties. [Amended 7-19-1994 by Ord. No. 635, approved 7-19-1994]

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not less than \$300 nor more than \$1,000 and costs of prosecution and restitution in a case in which the Borough has abated the nuisance in accordance with § 106-4B of this chapter or, upon default of payment of fines, costs and restitution, by imprisonment in the county jail for a period of not more than 30 days.