

Chapter 93

NUISANCES

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[HISTORY: Adopted by the Borough Council of the Borough of Montoursville 9-18-2006 by Ord. No. 415. Amendments noted where applicable.]

GENERAL References

Property maintenance — See Ch. 114.

Holding tanks — See Ch. 118, Art. I.

§ 93-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED VEHICLES — A vehicle (other than a pedal cycle): [Added 8-2-2010 by Ord. No. 444]

- A. That is inoperable and is left unattended on public property for more than 30 days.
- B. That has remained illegally on public property for a period of more than 30 days.
- C. This is without a valid registration plate or certificate of inspection or title and is left unattended on or along a highway.
- D. That has remained on private property, with or without the consent of the owner or person in control of the property, for more than 30 days and does not have a valid registration plate or current certificate of inspection.

BOROUGH — The Borough of Montoursville, Lycoming County, Pennsylvania.

COUNCIL — The Borough Council of the Borough of Montoursville, Lycoming County, Pennsylvania.

DISCONTINUED USE — The abandonment or discontinuance of the use or active operation of an underground storage tank.

JUNK VEHICLE — Any motor vehicle, valueless except as junk. [Added 8-2-2010 by Ord. No. 444]

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 Borough of Montoursville.

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

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

REGULATED SUBSTANCE — An element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health, welfare or the environment and which is a regulated substance, by the Pennsylvania Department of Environmental Protection, as defined in the Storage Tank and Spill Prevention Act, 35 P.S. § 6021.101 et. seq.

STORAGE TANK — Any underground storage tank which is used for the storage of any regulated substance.

UNDERGROUND STORAGE TANK — Any one or combination of tanks (including underground pipes connected thereto) which are used to contain an accumulation of regulated substances, the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground.

WEEDS — Includes all rank vegetable growth which exhales unpleasant and noxious odors or pollen and also rank vegetable growth which may conceal filthy deposits or serve as breeding places for mosquitoes or other insects. [Added 8-2-2010 by Ord. No. 444]

§ 93-2. Nuisances prohibited. [Amended 8-2-2010 by Ord. No. 444]

It shall be unlawful for any person to create or maintain any condition upon his or her property which could directly or indirectly cause a nuisance. A nuisance shall include, but not be limited to, the following:

- A. Maintaining or causing to be maintained any underground storage tank, the use of which has been discontinued.
- B. Growing noxious weeds or other undesirable vegetation, grasses, etc., thereon to a height in excess of eight inches or maturing their seeds thereon or failing to cut and destroy such weeds and other undesirable vegetation when notified by the Borough to do so.
- C. Storing or accumulating the following:
 - (1) Garbage or rubbish.
 - (2) Junk material, including, but not limited to, unused or abandoned machinery, equipment or appliances.
 - (3) Other junk, including, but not limited to, any and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvable materials.
- D. It shall be unlawful to store or deposit any abandoned or junked vehicle, or part thereof, in or on any highway or public or private property, vacant or occupied, within the Borough of Montoursville.

- E. Storing or accumulating more than three antique or collector motor vehicles for restoration which are neither sheltered by a building nor enclosed behind an evergreen or solid fence as permitted by applicable zoning ordinance; or storing or accumulating in an unorderly fashion, three or less antique collector motor vehicles for restoration.
- F. Maintaining or causing to be maintained any dangerous structure, including, but not limited to, abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.
- G. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by the Borough or by the Commonwealth of Pennsylvania and allowing same to remain thereon.
- H. Allowing or permitting any excavation or obstruction, on or adjoining any highway, street or road, to remain opened or exposed without the same being secured by a barricade, temporary fence or other protective materials.
- I. Dumpsters, rolls-offs and construction debris containers placed within a street right-of-way shall have lights or protective material placed so as to be seen at night.
- J. The maintenance or storage by an owner or lessee of a motor vehicle which is unable to move under its own power and has any of the following physical defects:
 - (1) Broken windshields, mirrors or other glass with sharp edges.
 - (2) One or more flat or open tires or tubes which could permit vermin harborage.
 - (3) Missing doors, windows, hood, trunk or other body parts which could permit vermin harborage.
 - (4) Any exposed body parts with sharp edges including holes resulting from rust.
 - (5) Missing tires resulting in unsafe suspension of the motor vehicle.
 - (6) Upholstery which is torn or open which could permit vermin harborage.
 - (7) Broken head lamps or tail lamps with sharp edges.
 - (8) Disassembled chassis parts apart from the motor vehicle, stored in a disorderly fashion or loose in or on the vehicle.
 - (9) Protruding sharp edges from the chassis.
 - (10) Any vehicle or part thereof suspended from the ground in an unstable manner.
 - (11) Leaking or damaged oil pan or gas tank.
 - (12) Exposed battery containing acid.
 - (13) Inoperable locking mechanism for doors or trunk.
 - (14) Open or damaged floor boards, including trunk and firewall.
 - (15) Damaged bumpers pulled away from the perimeter of the vehicle.

- (16) Broken grill with protruding edges.
 - (17) Loose or damaged metal trim and clips.
 - (18) Broken communications equipment antenna.
- K. The unsheltered storage or maintenance of junk or the storage or maintenance of garbage, rubbish or any other material, if any, if the following conditions exist with respect thereto:
- (1) Broken glass or metal parts with sharp or protruding edges.
 - (2) Openings or areas which are conducive to the harboring of vermin.
 - (3) Storage in any manner which would allow the junk, garbage, rubbish or materials, or any part thereof, to easily shift, tilt, or fall from their original storage position.
 - (4) The presence of any liquid or material of a hazardous or potentially hazardous nature, including, but not limited to, gasoline, oil, battery acids, refrigeration agents or poisons.
- L. The maintenance of abandoned or neglected buildings, structures, sidewalks or premises which shall pose or constitute any of the following conditions or hazards:
- (1) A fire hazard to adjoining structures and other property within the Borough.
 - (2) A danger of infestation by vermin.
 - (3) An area which is or which might potentially serve as an area of play or attraction for children of the Borough or the public in general.
 - (4) Buildings or structures whose interior walls or other vertical structural members list, lean or buckle to such an extent that a block line passing through the center of gravity falls outside of the middle third of its base.
 - (5) Buildings or structures which, exclusive of the foundation, show 30% or more of damage or deterioration of the supporting members or 50% or more of damage or deterioration of the nonsupporting interior or outside walls or covering.
 - (6) Buildings or structures which have improperly distributed loads upon the floors or roofs, or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 - (7) Buildings or structures which have been damaged by fire, wind, or other causes so as to have become dangerous to life or safety of the occupants or to others in the vicinity.
 - (8) Buildings or structures which have become or are so dilapidated, decayed or unsafe that they are unfit for human habitation or are likely to cause injury to occupants or to others in the vicinity.

- (9) Buildings or structures having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, fire escapes or other means of access and egress.
 - (10) Buildings or structures, parts of which are so attached that they may fall or injure members of the public or cause damage to the property.
- M. The setting, maintenance, operation, conduct or permitting of the establishment and maintenance of fire, combustion or manufacturing, or commercial or other process which is or shall be accompanied by constant periodic or occasional emission of smoke, sparks, ash particles, burned sawdust and debris or the creation and spreading of ash, debris, poisons and like materials on surrounding and adjacent property to the annoyance, disturbance and detriment of surrounding property owners, residents, passersby and the traveling public.

§ 93-3. Inspection of premises; notice to comply. [Amended 8-2-2010 by Ord. No. 444]

- A. Whenever the Borough is made aware of a condition constituting a nuisance within the Borough, the Borough Zoning Officer, Code Enforcement Officer, Borough Police, or Borough Solicitor is hereby empowered to inspect private property to determine if there is compliance with the provisions of this chapter. If noncompliance with the provisions of this chapter is determined by the Borough Council to constitute a nuisance, the Borough Zoning Officer, Code Enforcement Officer, Borough Police, or Borough Solicitor shall issue a written notice to be served upon the owner and lessee, if applicable, in one of the following manners:
- (1) By making personal delivery of the notice to the owner or lessee.
 - (2) By handing a copy of the notice at the residence of the owner or lessee, to an adult member of the family with whom he or she resides or, if no adult member of the family is found, then to an adult person in charge of such residence.
 - (3) By fixing a copy of the notice to the door at the entrance of the premises in violation.
 - (4) By mailing a copy of the notice to the last known address of the owner or lessee by certified mail.
 - (5) By publishing a copy of the notice in the local newspaper once a week for three successive weeks.
- B. Such notice shall set forth in what respect such condition constitutes a nuisance, whether removal is necessary, or whether the situation can be corrected by repairs, alterations or by fencing or boarding or in some way confining and limiting the nuisance. Such notice shall require the owner or lessee to commence action in accordance with the terms thereof and to have the condition corrected within 72 hours.

§ 93-4. Authority to remedy noncompliance.

If the owner or lessee of the property upon which the nuisance is located does not comply with the notice to abate the nuisance within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs and, in addition thereto, reasonable attorney's fees. The Borough 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.

§ 93-5. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this chapter, 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 Borough.