

ORDINANCE NO. 412

**AN ORDINANCE PROHIBITING NUISANCES WITHIN THE BOROUGH INCLUDING NOISE, ODORS AND OTHER NUISANCES DEFINING AND IMPOSING A FEE FOR THE REMOVAL OF NUISANCES IN THE BOROUGH OF HARMONY; SETTING FORTH THE AMOUNT OF SAID FEE AND THE PERSONS RESPONSIBLE FOR THE PAYMENT OF THE SAME AND THE COLLECTION PRACTICE; AUTHORIZING AND DIRECTING BILLING AND COLLECTION PROCEDURES.**

WHEREAS, the Borough of Harmony (the "Borough") finds it necessary to describe what constitutes a nuisance more completely and to define with particularity the procedure to be followed by both the Borough and the property owner for abatement of a nuisance more completely.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by Council of the Borough of Harmony, in meeting assembled, as follows:

**NUISANCES**

**Section 1. Legislative findings.**

The Borough Council of the Borough of Harmony, Butler County, 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.

**Section 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.

**DANGEROUS BUILDING** -- 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 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, decay, or faulty construction, the removal, instability or movement of any portion of ground necessary for the purpose of such building, the decay, deterioration or inadequacy of its foundation, or for 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 is 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, inadequate light, air or sanitation facilities.
- F. The building or structure creates a fire hazard by virtue of its obsolescence, dilapidated conditions, deterioration, damage or other cause.
- G. Any portion of the building, including the foundation, slab or grade, or structure which 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 which may reasonably be expected to attract them to premises.

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.

- 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 non-designed 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 6 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.
- G. Trees, shrubs, hedges or other vegetation overhanging sidewalks or other pedestrian walkways at a height less than eight feet.
- 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.
- 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.
  - a. The storage of waste, trash and garbage shall be hidden from public view by a fence or similar structure, constructed in compliance with this Ordinance, as amended, unless the unique features of the property make it impossible to do so, and such impossibility is not created by the owner's, tenant's or occupant's action. In such case, all waste, trash, or garbage shall be completely enclosed in covered containers or receptacles with rigid sides, designed for such purpose, which covers shall, at all times, close flush with the top of the container or receptacle. Plastic bags, paper bags, cardboard boxes or similar items are not acceptable containers or receptacles for the purposes of this Section.
  - b. The owner, tenant, or occupant shall not permit waste, trash and/or garbage to be stored outside such containers or receptacles.

- c. Outdoor trash, rubbish, and recycling collection areas shall be located with an emphasis upon shielding the site from public view and to shield with landscaping the area near the site to minimize any detrimental effects upon neighboring properties. The following shall apply to all such uses:
- (i) No collection site for trash, rubbish or recyclable materials shall be located within any front yard area or along any street frontage.
  - (ii) The collection site shall be a minimum of ten feet (10') from any rear property line.
  - (iii) Each site shall be screened with a six-foot (6') opaque fence or basket weave fence. Landscaping with shrubbery and trees as per Section 115 L is also required.
  - (iv) The maximum area of each site shall not exceed two hundred (200) square feet.
  - (v) Daily inspections by the property owners or tenants shall be conducted to collect any loose debris near the container and insure animals, rodents, and vermin do not inhabit the area.
  - (vi) Garbage containers may be stored at front or side of a dwelling if meeting the following criteria:
    - a) Container is located 30-foot setback from any curb(s)
    - b) Container has two (2) operational wheels for the purpose of conveyance.
    - c) Container is completely enclosed covered container or receptacle with rigid sides, designed for such purpose, which covers shall, at all times, close flush with the top of the container or receptacle.
    - d) Container maximum exterior dimensions are:
      - 1) 33" depth
      - 2) 47" height
      - 3) 27" width
- d. No outdoor stockpiling of any material or outdoor storage of trash is permitted in the front yard. In any residential district, the outdoor stockpiling of materials (except firewood) for more than thirty (30) days is prohibited.
- e. The placement of framed enclosure composts as an accessory residential use is permitted, subject to all accessory use setbacks. Only yard/garden waste materials from the residential site shall be deposited within the compost, and in no case shall meat or meat by-products be composted. All composts shall be properly maintained so as not to become a nuisance to nearby properties.

- J. Maintaining more than one unregistered or uninspected motor vehicle(s) on a lot, except for properly licensed new or used car dealers.
- K. Any unnecessary noises or sounds by means of the human voice, or by any other means or methods which are physically annoying to the comfort of any person, or which are so harsh or so prolonged or unnatural or unusual in their use, time and place as to occasion physical discomfort, or which are injurious to the lives, health, peace and comfort of the inhabitants of said Borough, or any number thereof.
- L. To sound any horn or warning device on any automobile, motorcycle, bus or other vehicle, except when required by law, or when to give timely warning of impending danger to persons driving other vehicles or to persons upon the street. No person shall sound any horn or warning device on any automobile, motorcycle, bus or other vehicle which shall emit an unreasonably loud or harsh sound, or for any unnecessary or unreasonable period of time.
- M. No emission of smoke, ash, dust, fumes, particulate matter or other air pollutant which violates applicable Federal, State, County or City laws and regulations. Any use or activity in the Borough shall obtain and maintain all necessary license and permits from the appropriate County, State and Federal agencies as a condition of occupancy.
- N. No emission of odorous gases or other matter from any source in such quantities as to be offensive on adjoining streets or adjacent lots. Any violation hereof constitutes a nuisance.
- O. No lighting device or reflective surface may produce objectionable glare into neighboring properties and/or roadways. Any violation hereof constitutes a nuisance.
- P. No discharge of any waste contrary to the provisions established by the Pennsylvania Department of Environmental Protection governing discharges of radiological chemical or biological wastes into surfaces or subsurface waters. Any violation hereof constitutes a nuisance.

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.

**Section 3. Illegality of nuisances.**

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

**Section 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 personally 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, shall be collected from the owner of the premises either by a civil action 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.

**Section 5. Enforcement; compliance.**

- A. Whenever a condition constituting a nuisance is permitted or maintained upon premises situate in the borough, the Building Inspector shall cause written notice to be served upon the owner in one of the following ways:
  - (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 30 days from the date of said notice, provided that the owner(s) has requested such an extension within the original term for compliance.
- 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 complies with the terms thereof.
- E. Each day shall constitute a separate violation of this chapter.
- F. Whenever a condition allegedly constituting a dangerous building shall remain unabated following notice by the Borough, 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 of the Borough of Harmony by resolution.

**Section 6. Violations and penalties.**

Any person, persons, firm or corporation who shall violate any of the provisions of this Ordinance, shall, upon conviction thereof, be punished by a fine of not less than One Hundred and 00/100 (\$100.00) Dollars nor more than One Thousand and 00/100 (\$1,000.00) Dollars, and in default of the payment of such fine and costs, to undergo imprisonment in the County Jail for a period of not less than thirty (30) days, nor more than ninety (90) days.

Each violation of any of the provisions of this ordinance shall be deemed to be a separate and distinct offense.

**Section 7. Conflict.**

That any ordinance or part thereof that may conflict herewith or be repealed hereby, be and the same is hereby repealed to the extent of said conflict.

**ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF HARMONY THIS 2nd DAY OF June, 2015.**

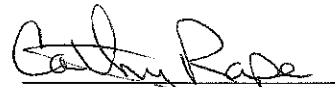
ATTEST

Amy Brown  
Secretary

BOROUGH OF HARMONY

By: Greg Such  
Greg Such, Council President

EXAMINED AND APPROVED BY ME THIS 2<sup>nd</sup> DAY OF  
June, 2015.

  
Cathy Rape, Mayor