

## Chapter 136

### NUISANCES

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[HISTORY: Adopted by the Borough Council of the Borough of Dallastown 1-4-1988 by Ord. No. 386. Amendments noted where applicable.]

#### GENERAL REFERENCES

Firearms and fireworks — See Ch. 109.

Fire prevention — See Ch. 114.

Peace and good order — See Ch. 141.

Solid waste — See Ch. 164.

Abandoned vehicles — See Ch. 208.

Zoning — See Ch. 224.

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§ 136-1. Title.

This chapter shall be known as the "Dallastown Borough Nuisance Ordinance."

§ 136-2. Definitions.

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

NUISANCE — Any conduct or any condition or any use of a premises or of a building or buildings situate on premises which is specifically set forth hereinafter or 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.

PERSON — A natural person, partnership, association, firm or corporation.

B. The singular shall include the plural, and any gender shall include all genders.

§ 136-3. Nuisances.

Nuisances shall include but not be limited to or expressly restricted to the following:

A. Any person, owner of property, occupant of property or agent of any owner or occupant of property within the Borough permitting the property to become unsanitary or become a fire hazard by allowing the accumulation of flammable material upon the premises in an unsafe and unprotected manner.

B. Any person, owner of property, occupant of property or agent of any owner or occupant of property within the Borough permitting weeds or grass to grow upon the property in excess of eight inches in height or to allow any vegetation as defined in the Pennsylvania

Noxious Weed Act (3 P.S. § 255.1 et seq.) to grow upon the property. No vegetation shall be allowed by any such person, owner, occupant or agent to grow on the sidewalks adjoining the property nor in the area where the curb adjacent to the property joins the street. [Amended 4-13-1998 by Ord. No. 432; 9-8-2003 by Ord. No. 501]

- C. Any person, owner of property, occupant of property or agent of any owner or occupant of property within the Borough permitting pools of water to accumulate and remain upon any premises and become stagnant and foul.
- D. Any person, owner of property, occupant of property or agent of any owner or occupant of property within the Borough permitting junk, disabled vehicles, waste material, garbage, scrap paper, roofing material, vegetation or other waste material to accumulate and remain upon a premises as a fire hazard or as a harborage for insects, snakes, rats or other vermin.
- E. Vehicles.
  - (1) Any person repairing, adjusting, tuning, running or operating a vehicle with a motor within the Borough who:
    - (a) Repeatedly races or revs such motor to the extent that it disturbs the peace and quiet of the neighborhood; or
    - (b) Races or revs such motor in such a manner as to disturb or annoy persons in the neighborhood who are of ordinary sensibilities.
  - (2) The provisions of this subsection shall not apply to an automotive repair business operating in conformance with the Dallastown Borough Zoning Ordinance and other applicable ordinances.<sup>1</sup>
- F. Any person who shall cause, make or maintain any building or structure within the Borough of Dallastown, or any portion thereof, to exist in a dangerous condition. For the purposes of this subsection, the term "dangerous condition" shall be any condition which threatens or interferes with the health or safety of persons beyond the boundaries of the property in which the building or structure is located. This subsection shall apply to open wells, cisterns, open excavations, unfinished buildings, foundations or similar structures or lakes, ponds and swimming pools that are not properly safeguarded.
- G. Any person operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or a similar device in a residential area between the hours of 10:00 p.m. and 6:00 a.m. the following day, which annoys or disturbs a reasonable person of normal sensibility.
- H. Any person who operates or permits the operation of any mechanically powered model airplane on any public street, public ground or playground within the Borough of Dallastown.
- I. Any person who operates or permits the operation of heavy equipment or trucks, in connection with road construction, excavation or trenching, in a residential area between

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1. Editor's Note: See Ch. 224, Zoning.

the hours of 8:00 p.m. and 6:00 a.m. the following day, without a permit to be issued by the Borough Manager of Dallastown Borough. For purposes of this subsection, a special permit shall be issued by the Borough Manager of Dallastown Borough, upon approval of the Dallastown Borough Council, upon a showing that the construction work must proceed as a matter of emergency or that said construction work can proceed without annoying or disturbing a reasonable person of normal sensibilities, except for snow removal.

- J. Any person who shall cause, place, cast or throw, upon any of the sidewalks in the Borough of Dallastown, any piece of glass or sharp or pointy metal or any other article or substance or matter which might be a source of danger and possible accident or injury to an person walking upon such sidewalk.
- K. Any person who shall play a radio, television, jukebox, amplifier or other sound device so that the sound produced thereby is capable of being heard beyond the premises from which the sound originates.
- L. Any person who keeps or harbors any animal or fowl which, by frequent howling, barking, other noise or odor, annoys or disturbs the persons in the neighborhood who are of ordinary sensibilities.

**§ 136-4. Abatement of nuisance.**

- A. Whenever any nuisance as defined by § 136-3 of this chapter shall exist and shall come to the knowledge of the Borough Council, the Borough Council may direct the appropriate Borough official to cause a written notice identifying such property and nuisance to be issued to the person responsible for such nuisance. Such notice shall be addressed to such person at that person's post office address or by publication two times within 10 consecutive days if the person's address is not known, and such notice shall direct the abatement of such nuisance within 10 days from the date of the notice.
- B. Such notice shall set forth that in the event the person should fail to obey the nuisance, the Borough may at once cause the same to be abated and charge the cost and expense incurred in abating the nuisance to the person and where such nuisance involves real estate to cause the same to become a lien against said property as permitted by the Borough Code.<sup>2</sup>
- C. In the event that such person refuses or fails to cause such nuisance to be abated in the time provided herein, the Borough Council may have the nuisance abated in a reasonable and prudent manner and the cost of abating such nuisance shall be charged against the person causing the nuisance. It is hereby provided that such cost charged to such person causing the nuisance shall include general overhead of administrative expenses or of inspections, locating the owner, issuing a notice, reinspection, ordering work done, actual work done, labor incurred, together with all necessary incidence of the same and direct costs. Notwithstanding the aforesaid, any cost shall include a minimum charge for administrative expenses. Such expenses, at the direction of Borough Council, shall be collected from such person in accordance with law, including the same being entered as a

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2. Editor's Note: See 53 P.S. § 45101 et seq.

municipal lien against the property where such nuisances involved real estate, provided that the owner was given notice of the nuisance, together with a ten-percent penalty and reasonable attorney's fees in accordance with 53 P.S. § 7106 of the Municipal Claims and Tax Law, together with interest and court costs.<sup>3</sup>

- D. In addition to the remedies prescribed by this section, and cumulative thereof, the nuisance or nuisances exist, and if it shall be brought to the attention of the Borough Council and if it shall be determined that such nuisance or nuisances are likely to have an immediate adverse affect on the public health, comfort or safety, then and in that event, the Borough Council may, by appropriate resolution or motion, order such nuisance or nuisances summarily be abated by the Borough in a reasonably prudent manner.
- E. The Borough may proceed with an action at law or in equity to require the abatement of the nuisance and the Borough's proceeding with such legal action shall not prohibit the Borough from seeking to impose either penalties prescribed by this chapter or from seeking summarily abatement of a nuisance as set forth above.

#### **§ 136-5. Violations and penalties.** <sup>4</sup>

In addition or separate from the action for abatement of a nuisance as set forth in § 136-4, any person violating this chapter or any part thereof may be charged and shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, plus costs of prosecution, and in default of payment of such fine and costs by imprisonment for not more than 30 days. After the initial notice, each day that the nuisance continues shall be deemed to be a separate offense and shall be subject in all respects to the same penalties as the first offense, and separate proceedings may be instituted and separate penalties imposed from each day's offense.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).