

Chapter 149

PROPERTY MAINTENANCE

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[HISTORY: Adopted by the Borough Council of the Borough of Dallastown 8-28-2001 by Ord. No. 468. Amendments noted where applicable.]

GENERAL REFERENCES

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| Building construction — See Ch. 90. | Rental properties — See Ch. 151. |
| Numbering of buildings — See Ch. 93. | Solid waste — See Ch. 164. |
| Inspections — See Ch. 114. | Stormwater management — See Ch. 173. |
| Mosquito control — See Ch. 131. | Streets and sidewalks — See Ch. 178. |
| Nuisances — See Ch. 136. | Zoning — See Ch. 224. |
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§ 149-1. Definitions; word usage.

- A. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context.

ACCESSORY STRUCTURE — A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

BUILDING — An independent structure having a roof supported by columns or walls resting on its foundations and includes dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school or similar structure.

CODES ENFORCEMENT OFFICER — The individual or entity authorized by Dallastown Borough Council to inspect properties and any other duties set forth in this chapter.

DANGEROUS BUILDING — All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundation, show damage or deterioration to 33% of the supporting member or members, or damage or deterioration to 50% of the nonsupporting enclosing or outside walls or covering.
- (3) Those 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.
- (4) Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety or the general health and welfare of the occupants or the public.
- (5) Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.
- (6) Those which have parts thereof which are so attached that they may fail and injure property or members of the public.
- (7) Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or the public.
- (8) Those which because of their location are unsanitary, otherwise dangerous to the health or safety of the occupants or the public.

DWELLING UNIT — Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating by human occupants.

EXTERMINATION — The control and elimination of insects, rodents or other pests by eliminating their harborage places; removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

GARBAGE — Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION — The presence within or around a dwelling of any insects, rodents or other pests.

OWNER — Person who, alone or jointly or severally with others:

- (1) Shall have legal title to any real estate subject to this chapter, with or without accompanying actual possession thereof; or,
- (2) Shall have charge, care or control of any real estate or improvement thereon which is subject to this chapter, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, or guardian of the estate of the owner. Any such person

thus representing the actual owner shall be bound to comply with the provisions of this chapter and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PERSON — Any individual, firm, corporation, association or partnership or other legal entity.

PLUMBING — All of the following supplies, facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, incinerators, waste pipes, water closets, sinks, dishwashers, lavatories, bathtub, shower baths, shower stalls, clothes-washing machines, catch basins, drains, vents and any other similar supplies and fixtures, together with all connections to water, sewer or gas lines and water pipes and lines, including those utilized in conjunction with air-conditioning equipment.

PREMISES — A lot, plot or parcel of land, together with any improvements thereon erected.

PROPERTY — A piece, parcel, lot or tract of land.

PUBLIC ACCESS AREA — A six-foot wide strip of land extending onto any lot from the rear of the curb of any public street or edge of roadway.

REST ROOMS — An enclosed space containing one or more toilets and one or more lavatories or fixtures serving similar purposes.

RUBBISH — Nonputrescible solid wastes (excluding ashes) consisting of either:

- (1) Combustible wastes, such as paper, cardboard, plastic containers, yard clippings and wood; or
- (2) Noncombustible wastes, such as tin cans, glass and crockery.

STRUCTURE — Anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs and walks.

VENTILATION — The supply and removal of air to and from any space by natural or mechanical means.

VENTILATION, MECHANICAL — Ventilation by power-driven devices.

VENTILATION, NATURAL — Ventilation by opening to outer air through windows, skylights, doors or stacks with or without wind-driven devices.

WEATHERING — Deterioration, decay or damage caused by exposure to climatic elements.

- B. Whenever the words “dwelling,” “dwelling unit” or “premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.”

§ 149-2. Responsibilities of owner, operator and occupant to be independent of one another.

- A. Owner and operator. Owners and operators shall have all the duties and responsibilities as prescribed in this chapter and the regulations promulgated pursuant thereto, and no owner or operator shall be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation on the basis that the occupant is also responsible therefor and in violation thereof.
- B. Occupant. Occupants shall have all the duties and responsibilities as prescribed in this chapter and all the regulations promulgated pursuant thereto, and the occupant shall not be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the owner or operator is also responsible therefor and in violation thereof.
- C. Contract not to alter responsibility. Unless expressly provided to the contrary in this chapter, the respective obligations and responsibilities of the owner and operator as distinguished from the occupant shall not be altered or affected by any agreement or contract between any of the aforesaid or between them and other parties.

§ 149-3. Specific duties and responsibilities of owner, operator and occupant.

- A. Maintenance of exterior of all premises, residential or nonresidential, free of hazards and unsanitary conditions.
 - (1) The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises and free of unsanitary or noxious conditions. Any of the foregoing shall be promptly removed and abated by the owner, operator or occupant. It shall be the duty of the owner, operator or occupant to keep the premises free of hazards which shall include, but are not limited to, the following:
 - (a) Refuse, including brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, animal excretion, trash, garbage, rubbish and debris. All such material shall be enclosed or screened and periodically removed. The owner, operator or occupant shall also comply with all terms and provisions of the Dallastown Borough Refuse Ordinance as set forth in Article II of Chapter 164 of the Code of the Borough of Dallastown, and any amendment thereto.
 - (b) Natural growth, including dead and dying trees and limbs or other natural growth which, by reason of rotting or deterioration or storm damage, constitute a hazard to all persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions. This provision shall be applicable to trees planted in the sidewalk area.
 - (c) Overhanging matter, including loose and overhanging objects and accumulations of ice and snow, which, by reason of location and height above ground level, constitute a danger of falling on persons below in the vicinity thereof.

- (d) Ground surface hazards or unsanitary conditions, including holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow and excretion of pets or other animals on paths, walks, curbs, driveways, parking lots and parking areas and other parts of the premises which are accessible to and used by persons on the premises. All such holes and excavations shall be filled and repaired, walks, sidewalks, curbs and steps replaced, and other conditions removed when necessary to eliminate hazards or unsanitary conditions. Performance is to be made with reasonable dispatch upon discovery.
 - (e) Recurring excessive accumulations of stormwater. All lots shall be graded so as to prevent puddling. Adequate runoff drains shall be provided and maintained in a manner which shall eliminate recurrent or excessive accumulations of stormwater. The drainage of water from downspouts or air-conditioning condenser units shall be directed so as not to create damage or hazard to neighboring property or sidewalk areas or shall be discharged into underground drains.
 - (f) Unsound foundation walls. Foundation walls shall be kept structurally sound, free from defects and damage and capable of bearing safely imposed loads.
 - (g) Unsound chimneys and all flue and vent attachments thereto. Chimneys and all flue and vent attachments thereto shall be maintained in a manner structurally sound and free from defects in order to capably perform at all times functions for which they were designed. Chimneys, flues, gas vents and other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, be structurally safe, durable, smoke-tight and capable of withstanding the temperature and action of flue gases.
- (2) All new exterior porches, landings, balconies, stairs and fire escapes shall be provided with railing properly designed and maintained to minimize the hazard of falling, and the same, and all existing railings on exterior porches, landings, balconied stairs and fire escapes, shall be kept structurally sound, in good repair and free from defects.
- B. Appearance of exterior premises and structure.
- (1) Residential. The exterior of the premises, the exterior of the dwelling structures, and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the residential standards of the neighborhood or such higher standards as may be established by this chapter and the regulations promulgated pursuant to this chapter. The appearance of the premises and structures shall be so maintained that they do not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property values. Such minimum standards shall include, but not be limited to, the following:
- (a) Storage of commercial and industrial material, equipment and material relating to commercial or industrial uses shall be stored or used at a location visible from the sidewalk, street, other public areas or adjoining properties.

- (b) Landscaping. All portions of a property not covered by buildings or paving materials shall be covered with a vegetative surface. Vegetative surface may be herbaceous or woody-type plant materials and includes, but shall not be limited to, lawns, ground covers, flower beds, trees, shrubs, bushes, and hedges. All vegetation shall be mowed, trimmed, clipped, pruned or otherwise controlled as necessary to prevent it from becoming a nuisance. Vegetation will be considered a nuisance if any of the following conditions are not met:
- [1] All trees within, overhanging or encroaching onto any public right-of-way, sidewalk or public access area shall be pruned to remove any branches or foliage from the ground level to a height of at least six feet.
 - [2] Woody vegetation, such as trees, shrubs, bushes, and hedges, shall not be installed within any easement or right-of-way or over any underground utility line, utility lateral, service line, storm sewer, sanitary sewer or any public facility or main.
 - [3] Any new tree or shrub planted under existing overhead utility lines shall be of a species or variety that will not reach a height that would conflict with the utility lines.
 - [4] All existing trees or shrubs planted under existing overhead utility lines and individual service lines as of the effective date of this chapter shall be pruned as necessary to prevent any branches or foliage from touching or otherwise conflicting with the overhead utility line.
 - [5] Entire trees or individual branches of any tree that have been weakened by disease, physical damage, insect infestation or any other natural or man-made cause to the point that, in the opinion of the Borough Codes Enforcement Officer, the tree or tree limbs pose a threat to public safety shall be removed promptly.
 - [6] All shrubs, bushes, hedges, ground covers and herbaceous vegetation shall be trimmed or pruned as necessary to prevent encroachment onto any public right-of-way, sidewalk or public access areas.
 - [7] All vegetation, including woody and herbaceous ground covers, shall be maintained to prevent bedding or harboring of rodents.
 - [8] All lawn areas shall be mowed to the heights specified in the Dallastown Borough Weed Ordinance.¹
- (c) Signs. All signs permitted by reason of other regulations, or as a lawful nonconforming use under the provisions of Ch. 224, Zoning, shall be maintained in good repair. Printed matter, pictures or illustrations constituting in all or in part a sign, when no longer in use, shall be completely removed.
- (d) Reconstruction of walls and siding. All reconstruction of walls and siding shall be accepted standard quality. Materials used shall not be of a type that by their

¹ Editor's Note: See Ch. 136, Nuisances.

appearance and under prevailing appraisal practices and standards will depreciate the values of neighboring and adjoining premises.

- (e) General maintenance. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair, and all surfaces thereof shall be kept painted or otherwise treated when necessary for purposes of preservation and appearance. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance, to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.
 - (f) All auxiliary structures in residential areas shall be securely affixed and anchored to a foundation that would prevent said buildings from being blown from their location by high winds and moved or removed by vandals.
- (2) Nonresidential. The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners or an element leading to progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property values. Such minimum standards shall include, but not be limited to, the following:
- (a) Landscaping. Premises shall be kept landscaped and lawns, hedges and bushes shall be kept trimmed and from becoming overgrown and unsightly; and the same, unless trimmed and maintained, shall be deemed to constitute a blighting factor depreciating adjoining property.
 - (b) Signs and billboards. All permanent signs and billboards exposed to public view, permitted by reason of other regulations or a lawful nonconforming use, shall be maintained in good repair. Any signs which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed forthwith or put into a state of good repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.
 - (c) Building fronts. All building fronts shall be kept in good repair, painted where required, and maintained in a manner not constituting a safety hazard or nuisance. In the event repairs to a building front become necessary, such repairs shall be made with the same or similar materials used in the constructing of the building front, intended to permanently repair the damaged area or areas. Any cornice visible above a building front shall be kept painted, where required, and in good repair.
 - (d) Advertising signs or material removal. Except for "For Rent" signs or "Invalid Occupant" signs, any temporary advertising sign or other paper advertising material, glued or otherwise attached to a window or windows or otherwise exposed to public view, shall be removed at the expiration of the event or sale for which it is erected, or within 60 days after erection, whichever shall first

occur, except yard sale signs which shall be removed within 24 hours after the end of the sale advertised on such sign.

- (e) Awnings and marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and in a manner which shall not constitute a nuisance or safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event the awnings or marquees are made of cloth or plastic or of similar materials, said cloth, plastic or other material, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing, or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.
- (f) Reconstruction of walls and siding. All reconstruction of walls and siding shall be of accepted standard quality. Materials shall not be of a type that, by their appearance and under prevailing appraisal practices and standards, will depreciate the values of neighboring and adjoining premises.
- (g) General maintenance. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair, and all surfaces thereof shall be kept painted or otherwise treated when necessary for purposes of preservation and appearance. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, or other conditions reflective of deterioration or inadequate maintenance, to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.
- (h) Parking. Parking shall be permitted and required on the premises in strict accordance with the provisions of Ch. 224, Zoning, and any and all other applicable ordinances.

C. Structural soundness and general exterior maintenance.

- (1) Residential. Every dwelling and accessory structure and every part thereof shall be kept structurally sound and in good repair to avoid safety, health or fire hazards including, but not limited to, the following:
 - (a) Exterior walls, siding and roofs. Exterior walls, siding and roofs shall be kept structurally sound and in good repair and free from defects.
 - (b) Painting and other protective coating. All exposed surfaces susceptible to decay shall be kept at all times painted or otherwise provided with a protective coating sufficient to prevent deterioration.
 - (c) Weather and watertightness. Every dwelling shall be maintained so as to be weather- and watertight. Damaged materials must be repaired or replaced promptly. Places showing signs of rot, leakage, deterioration or corrosion are to be restored and protected against weathering or seepage.

- (2) Nonresidential. The exterior of every structure or accessory structure (including fences, signs and store fronts) shall be maintained in good repair. All surfaces thereof shall be painted or otherwise treated where necessary for the purpose of preservation and appearance. All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, or any other condition indicating deterioration or inadequate maintenance. Such maintenance is to be conducted in a manner that shall preserve the property itself, eliminate or minimize safety and fire hazards to the property and adjoining properties and eliminate or retard blighting influences in the neighborhood.
- (3) Reconstruction of walls and siding, all areas. All reconstruction of walls and siding shall be of accepted standard quality. The materials used shall not be of a type that, by its appearance, under prevailing appraisal practices and standards, will depreciate the value of neighboring and adjoining premises.
- (4) Basements and cellars, all areas. Basements, cellars and crawl spaces are to be free of moisture resulting from seepage; and cross ventilation shall be required when necessary to prevent accumulation of moisture.
- (5) Freedom from infestation, all areas. All parts of the premises shall be maintained in a manner which shall prevent infestation by insects, vermin and rodents.
- (6) General sanitation and safety of premises. All parts of the premises shall be kept in a clean and sanitary condition, free of nuisances and free from hazards to health, safety and fire, including, but not limited to, the following:
 - (a) Freedom from accumulations and obstructions. No accumulation or obstruction from garbage, refuse or rubbish, including, but not limited to, refrigerators, appliances, tires, used furniture, etc., shall be permitted on or in any premises, except that garbage placed in proper containers may be set out for removal, in accordance with the ordinances of the borough relating to garbage collections.²
 - (b) Floors, interior walls and ceilings. Floors, interior walls and ceilings of every structure shall be structurally sound and maintained in a clean and sanitary condition.
 - (c) Floors, generally. Floors shall be considered to be structurally sound when capable of safely bearing imposed loads for which the structure is intended to be used, and shall be maintained at all times in a smooth, clean condition, free from cracks, breaks and other hazards.
 - (d) Junkyards. No junkyards shall be maintained on any premises except in full compliance with this and all other applicable ordinances of Dallastown Borough.

§ 149-4. Applicability; compliance required.

This chapter shall be applicable to all buildings, every residential and nonresidential building, and the premises on which it is situated in Dallastown Borough, used or intended to be used for

² Editor's Note: See Ch. 164, Solid Waste.

dwelling, commercial or business or industrial occupancy. Owners, operators and occupants shall comply with the provisions of this chapter whether or not such building shall have been constructed, altered or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter establishes minimum standards for the initial and continued use and occupancy of all such buildings and premises and does not replace or modify standards otherwise established for construction, repair, alteration or use of the building, equipment or facilities contained therein or of the premises.

§ 149-5. Higher standards to prevail in case of conflict.

In the event the provisions of this chapter pose a higher standard than set forth in any other ordinances of Dallastown Borough or any of the laws of the Commonwealth of Pennsylvania, the standards set forth herein shall prevail; but if the provisions of this chapter impose a lower standard than any other ordinance of Dallastown Borough or any of the laws of the Commonwealth of Pennsylvania, the higher standards contained in any such ordinance or law shall prevail.

§ 149-6. Dangerous buildings.

- A. Dangerous buildings declared nuisances. All dangerous buildings within the terms of § 149-1 of this chapter are hereby declared to be public nuisances and shall be repaired, vacated or demolished as herein provided.
- B. Standards for repair, vacation or demolition. The following standards shall be followed in substance by the Codes Enforcement Officer of the Borough of Dallastown in ordering repair, vacation or demolition.
 - (1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered to be repaired.
 - (2) If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding 30 days, as is reasonable.
 - (3) No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from and such placard is removed by the Codes Enforcement Officer. The Codes Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.
 - (4) If a dangerous building is 50% or more damaged or decayed or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will no longer exist in violation of the terms of this chapter; or, if a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the Borough of Dallastown or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished, provided that the cost of repairs to rectify or remove the

conditions constituting the nuisance exceed 50% of the market value of the building at the time demolition is proposed.

- C. Any excavation to be refilled. After removal of said building or structure, any excavation thereunder shall be refilled with earth or other suitable material to former ground level.

§ 149-7. Duties of borough officials.

- A. The Codes Enforcement Officer shall inspect on a regular basis dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of § 149-1 above.
- B. Whenever an inspection discloses that a dwelling, building or structure has become a public nuisance, the Codes Enforcement Officer or the Borough Manager shall issue a written notice thereof to the person or persons responsible therefor. The notice:
- (1) Shall be in writing.
 - (2) Shall include a statement of the reasons it is being issued.
 - (3) Shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building or structure.
 - (4) Shall be served upon the owner, or his agent, or the occupant, as the case may require.
 - (a) Except in emergency cases and where the owner, occupant, lessee or mortgagee is absent from the Borough of Dallastown, all notices shall be deemed to be properly served upon the owner, occupant or other person having an interest in the dangerous building if a copy thereof is served upon such person personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the Commonwealth.
 - (b) Except in emergency cases, in all other cases where the owner, occupant, lessee or mortgagee is absent from the Borough of Dallastown, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant and all other persons having an interest in said building, as shown by the records of the York County Recorder of Deeds, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.
 - (5) May contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with the rules and regulations adopted pursuant thereto.
- C. In the event the Codes Enforcement Officer determines that any property subject to this chapter fails to meet the requirements set forth herein or in applicable rules and regulations issued pursuant hereto, such Officer or the Borough Manager shall issue a notice setting forth the alleged failures and advising the owner or occupant that such failures must be corrected. This notice shall:

- (1) Be in writing.
- (2) Set forth the alleged violations of this chapter or of applicable rules and regulations issued pursuant thereto.
- (3) Provide a reasonable time for the correction of any violation alleged. The time for compliance shall take into consideration the seriousness of the violation and the climatic conditions. The Codes Enforcement Officer or the Borough Manager may, in his or her sole and absolute discretion, give one additional extension of time, provided that the property owner is exercising due diligence and the inability to make the correction is through no fault of the property owner.
- (4) Service of such notice shall be served in accordance with the provisions previously set forth in this section.

D. The Borough Inspection Officer shall appear at all hearings conducted by the Building Appeals Board, and testify to the condition of properties found to be in violation or found to be a nuisance.

§ 149-8. Violations and penalties.

Any owner or occupant who has received notice of a violation of this chapter or of the existence of a nuisance and fails to rectify the conditions constituting the nuisance or to remove and demolish the offending dwelling, building or structure shall, upon conviction thereof, be sentenced to pay a fine of not less than \$50 nor more than \$1,000 together with the costs of prosecution and, in default thereof, be sentenced to imprisonment in the York County Prison for a period of not more than 30 days. Each day of continued violation shall constitute a separate offense.

§ 149-9. Abatement by borough.

If the owner, occupant, mortgagee or lessee fails to comply with the order of the Codes Enforcement Officer or the Borough Manager within the time specified in the notice issued by such person and no petition for a hearing is filed within 10 days thereafter, or following a hearing by the Borough of Dallastown the order is sustained thereby, the Codes Enforcement Officer or the Borough Manager shall cause such building or structure to be repaired, vacated or demolished as determined by the Borough of Dallastown in accordance with the standards hereinbefore provided. The Borough of Dallastown may collect the cost of such repair, vacation or demolition, together with a penalty of 10% of such cost, plus attorney fees incurred by the borough regarding the same, in the manner provided by law, or the Borough of Dallastown may seek injunctive relief in a court of competent jurisdiction pursuant to the rules of civil procedure.

§ 149-10. Appeals.

A. Any person aggrieved by a notice issued by the Codes Enforcement Officer, Borough Manager or other borough designee may appeal the determination to the Building Appeals

- Board on an appeal form which may be obtained from the Codes Enforcement Officer or Borough Manager.
- B. The appeal must be filed with the Borough Manager not later than 15 days after the date of the determination of violation.
 - C. An appeal fee shall be paid by the appellant at the time the appeal is filed. The amount of the appeal fee hereby imposed may be set by the Borough Council by resolution from time to time. In the event the appeal is successful, for reasons other than the grant of an extension of time for compliance, the appeal fee shall be refunded to the appellant.
 - D. The Building Appeals Board shall meet to hear the appeal not later than 45 days after the appeal is filed. Notice of the time and date and place of the hearing shall be sent by ordinary mail to the appellant or the appellant's attorney of record not less than 10 days prior to the date and time of the hearing.

§ 149-11. Building Appeals Board.

- A. A Building Appeals Board is hereby established to hear and determine appeals filed under this chapter. The Building Appeals Board shall consist of three members who shall be residents of the Borough of Dallastown. The Borough Council shall appoint the members of the Building Appeals Board and may also appoint one alternate member for the Board. The term of office for the members and alternate member of the Building Appeals Board shall be three years, which terms shall run from January 1 to December 31, of the applicable years; except for the initial Building Appeals Board which shall have one of its regular members appointed for one year, one of its regular members appointed for two years, and one of its regular members appointed for three years. After the appointment of the initial members of the Building Appeals Board, the terms of all subsequent members of the Building Appeals Board shall be staggered so that each will end in a different year. If the Borough Council appoints an alternate member of the Board, such alternate member may act as a member of the Building Appeals Board only where a regular member of the Board is absent.
- B. The Building Appeals Board may establish such rules and regulations to regulate the conduct of its hearings as it may deem appropriate. The Board shall elect from its members a Chairperson, Vice Chairperson and Secretary annually.
- C. The burden of proof shall be on the Codes Enforcement Officer. The determination of the Codes Enforcement Officer or the Borough Manager, if applicable, shall be affirmed if supported by substantial evidence. Formal rules of evidence shall not apply so long as the decision of the Building Appeals Board is based on reliable information, but the decision of the Building Appeals Board may not be based solely on hearsay evidence.

§ 149-12. Emergency cases.

Whenever the Codes Enforcement Officer or the Borough Manager finds that an emergency exists which requires immediate action to protect the public health, such official may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other

provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Building Appeals Board shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this chapter have been complied with, the Codes Enforcement Officer and the Borough Manager shall continue such order in effect or modify or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

§ 149-13. Notice for sidewalk and curb repaving.

Upon receipt of a notice from the borough, the abutting property owner shall, within 60 days, complete, at his expense, the construction, paving, curbing, repaving or recurbing of the sidewalk, as the case may be, in accordance with borough ordinances regulating curb and sidewalk construction,³ which work must meet the approval of the Borough Engineer.

³ Editor's Note: See Ch. 178, Streets and Sidewalks.