

ORDINANCE 10-6
[Formerly Ordinance 240]

AN ORDINANCE PROHIBITING NUISANCES ON PRIVATE OR PUBLIC PROPERTY WITHIN THE BOROUGH: PROVIDING FOR THE REMOVAL THEREOF BY THE BOROUGH, AND FIXING PENALTIES FOR THE VIOLATION.

Be it ordained and enacted by the Council of the Borough of Mercersburg, and it is hereby ordained and enacted by the Authority of the same as follows:

SECTION 1 - DEFINITIONS: For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning 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.

- (1) "Owner" is a person owning, leasing, occupying or having charge of any premises within the Borough.
- (2) "Person" is any natural person, firm, partnership, association, corporation, company or organization of any kind.
- (3) "nuisance" is the unreasonable, unwarrantable or unlawful use of public or private property which causes material injury, damage, hurt, inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of his reasonable personal or property rights.

SECTION 2 - NUISANCES DECLARED ILLEGAL: nuisances, including but not limited to the following, are hereby declared to be illegal.

- (A) Storing or accumulating the following in a hazardous manner:
 - (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 material, including scrap metal, glass, industrial waste and other salvable materials).
- (B) Storing or accumulating abandoned or junked motor vehicle(s) in a hazardous manner.

- (C) Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or material of any kind or nature whatsoever from property along any public street, or alley in the Borough into or upon any street or alley, or from any property into or upon any adjoining property.
- (D) Burning garbage, tires or tar products, or burning any material after dark. Any fire must be attended at all times.
- (E) Maintaining or~ causing to be maintained any dangerous structure, including but not limited to abandoned, occupied or unoccupied buildings or parts of buildings.
- (F) Allowing or permitting any excavation to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.
- (G) Harboring, allowing or permitting dogs or other domestic animals to bark or otherwise make noise which unreasonably annoys adjacent property owners or otherwise creates a nuisance.

SECTION 3 - WRITTEN NOTICE TO VIOLATORS REQUIRED: Whenever a condition constituting a nuisance is permitted or maintained, the Borough Secretary shall cause written notice to be served upon the owner in one of the following ways:

- (1) By making personal delivery of the notice to the persons responsible.
- (2) By leaving the notice with an adult upon the premises.
- (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 by certified mail.
- (5) By publishing a copy of the notice in the local newspaper once a week for three successive weeks.

Such notice shall set forth in what respects such condition constitutes a nuisance, and whether removal is necessary and required by the Borough, or whether the situation can be corrected by repairs, alterations or by fencing or boarding or in some other way confining and limiting the nuisance. Such notice shall require the owner to commence action in accordance with the terms thereof within twenty-one (21) days and thereafter to comply fully with its terms with reasonable dispatch, all material to be supplied and work done at the owner's expense; provided, however, that if the violation charges is under Section 2 (E), (F) or (G), and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the thereof.

SECTION 4 - PENALTY FOR VIOLATION: If the owner after receiving due notice refuses to comply with the terms thereof:

- (1) The Borough Council may direct the removal, repairs or alterations, as the case may be, to be done by the Borough and the cost thereof with a penalty of 10% may be collected from the owner of the premises by an action of assumpsit or the Borough may file a municipal claim or lien therefore against such real estate.
- (2) The Borough by means of a complaint in equity may compel the owners to do so or the Borough may seek such other relief as the court is empowered to grant.

SECTION 5 - SEVERABILITY: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 6 - EFFECTIVE DATE: This ordinance shall become effective upon its adoption.

ENACTED AND ORDAINED this 7th day of November, 1983.

MERCERSBURG BOROUGH COUNCIL

/s/
President

ATTEST:

/s/
Secretary

Approved this 7th day of November, 1983.

/s/
Mayor