

NEW ALEXANDRIA BOROUGH
WESTMORELAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 165

AN ORDINANCE OF THE BOROUGH OF NEW ALEXANDRIA, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA AMENDING ORDINANCE NO. 92.01 OF THE CODE OF ORDINANCES OF THE BOROUGH OF NEW ALEXANDRIA, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA THAT REGULATES NUISANCES.

SECTION ONE.

A. The word NUISANCE as defined in this ordinance, shall mean any use of property within the Borough, or any condition upon property within the Borough that, other than infrequently, causes or results in:

1. annoyance or discomfort to persons beyond the boundaries of that property;
2. interference with the health and/or safety of persons beyond the boundaries of that property or of persons who might reasonably be expected to enter upon or be in that property; and/or,
3. disturbance to or interference with the peaceful use of the property of others within the Borough, in any case taking into consideration the location of the use or condition and the nature and condition of the surrounding neighborhood.

B. Specifically, the word NUISANCE shall include but shall not be limited to the following:

1. Loud playing of radios, television sets, amplifiers and other sound devices so as to be heard beyond the premises from which the same shall emanate.
2. Operating electric or gasoline-powered lawn mowers or gasoline-powered chain saws on any weekday before 7:00 a.m. or any Sunday before 9:00 a.m.
3. Operation of model airplanes equipped with gasoline engines on any public street or on any public ground, including any playground.
4. Keeping or harboring any dog or other animal or fowl which, by frequent howling or barking or other noise or odor shall annoy or disturb the neighborhood or a number of persons.

5. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:

- (a) Open wells or cisterns.
- (b) Open excavations.
- (c) Unfinished buildings, foundations or other structures.
- (d) Buildings or structures damaged or partially destroyed or in a state of disrepair or danger.
- (e) Dangerous placement or storage of vehicles, materials or equipment.
- (f) Lakes, ponds or swimming pools not properly safeguarded.
- (g) Stagnant water in pools in which mosquitoes, flies and insects multiply.

6. Carrying on any building or road construction, excavation, or trenching, or the operation of heavy equipment or trucks in connection therewith at any time on Sunday or legal holiday, or on any other day of the year at any time between 7:00 p.m. and 7:00 a.m. without a special permit issued by the Borough. The special permit shall be issued only if it is shown that the construction work must proceed as a matter of emergency or that it can be carried on in such a manner or in such place that the public or residents will not be annoyed or disturbed by that construction work.

7. Carrying on construction work in such a manner that dirt is carried by wind onto adjacent properties or that mud is tracked or drained into streets adjacent to the project.

8. Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the same before 5:00 p.m. of the day on which the same was deposited thereupon.

9. Using any property or operating any business or other activity so as to permit or cause smoke, soot, cinders, fly ash, dust, mud, dirt, acid, noxious or offensive fumes, gases or odors to be discharged into the air, or to be carried off the premises, or to cause any water to become polluted by sewage, industrial wastes, acid or other substance, or to cause a glare from lights, or noise of such character as to cause annoyance to residents or interference with the normal use of adjacent properties.

10. Creating or maintaining ATTRACTIVE NUISANCES, which is the leaving of a dangerous instrumentality which by its character is dangerous and attractive to children and in place frequented by children.

11. Maintaining or storing a motor vehicle which is unable to move under its' own power and has any of the following physical defects:

- (a) Broken windshield, mirror or other glass with sharp edges.
- (b) One or more flat or open tires which could permit vermin harborage.
- (c) Missing doors, windows, hoods, trunks, or other body parts which could permit animal harborage.
- (d) Any body parts with sharp edges including holes resulting from rust, missing tires resulting in unsafe suspension of the motor vehicle, missing tires.
- (e) Upholstery which is torn or open which could permit animal and/or vermin harborage.
- (f) Broken headlamps or taillamps with sharp edges, disassembled chassis or parts apart from the motor vehicle, protruding sharp objects from the chassis, broken vehicle frames suspended from the ground, leaking or damaged oil pan or gas tank, exposed battery, contained acid, inoperable locking mechanisms for doors and trunks, open or damaged floorboards including trunk and firewall, damaged bumpers pulled away from the perimeter of the vehicle, broken grill with protruding edges, loose or damaged metal trim and clips, broken communications equipment and antenna, suspended on unstable supports, such other defects with could threaten the health, safety and welfare of the citizens of the Borough.

12. The physical condition or use of any premises regarded as a public nuisance at common law.

13. Any premises which has unsanitary sewage or plumbing facilities.

14. Any premises designated as unsafe for human habitation or use.

15. Any premises which is manifestly capable of being a fire hazard or is manifestly unsafe or unsecure as to endanger life on the property.

16. Any premises from which the plumbing, heating and/or facilities required by the code in Ordinances or any other State or Federal Law have been removed or from which utilities have been disconnected, destroyed or rendered ineffective, or from which utilities have been disconnected, destroyed or rendered ineffective or the required precautions against trespassers have not been provided.

17. Any premises which is unsanitary or which is littered with rubbish or garbage.

18. Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent as to not provide shelter in danger of collapse, or failure and dangerous to anyone or near the premises.

19. The open or unsheltered accumulation or storage of tires (whether on rims or not on rims) and/or unused stripped, junked, wrecked, and/or partially dismantled automobiles or automobiles otherwise unusable for the purpose for which it was manufactured.

20. Any vehicle which does not have a current inspection sticker and/or a current license registration, if said vehicle is required to be inspected and registered under the Laws of the Commonwealth of Pennsylvania.

21. Any material upon a premise that is a residue of structural demolition or any other material that is not neatly stored, stacked or piled in such a manner and that is a harboring place or food supply for insects and rodents.

22. The storage or placement of any and all items designed for interior use, appliances, or furniture including but not limited to ranges, refrigerators, air conditioners, ovens, washers, driers, microwaves, tv's, computers or electronic components, dishwashers, mattresses, recliners, sofas, interior chairs, interior tables or any other items of indoor furniture on the exterior of any property, including porches, for the purpose of sale or any other reason except for the temporary purpose of keeping the item on the exterior of the property for a period of less than 24 hours for the purpose of maintaining or repairing the item or removing the item from the property or for a yard, estate, garage or similar temporary sale on residential property to sell residential items.

23. All buildings or structures that have any of the following defects:

(a) Those whose interior walls or other vertical structure members list, lean, or buckle to such an extent that a plum line passing through the center of gravity falls outside of the middle third of its base.

(b) Those which exclusive of the foundation show 33% or more of damage or deterioration of the supporting member(s) or 50% of damage or deterioration of the non-supporting closing or outside walls or covering.

(c) Those which have improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(d) Those which have been damaged by fire, wind or other causes so as to have become dangerous to the life, safety or the general health and welfare of the occupants or people of the Borough of New Alexandria.

(e) Those which have become or 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 likely to cause sickness or disease so as to work injury to the health, safety or general welfare living therein.

(f) 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.

(g) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(h) Those which, because of their location, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or of the people of the Borough of New Alexandria.

(i) Those buildings existing in violation of any provision of the New Alexandria Boroughs code of Ordinances.

SECTION TWO.

A. An OWNER is defined as a person, individual, partnership, joint venture, corporation or any other entity who separately or jointly with another has legal title to any building, structure or dwelling unit, with or without accompanying actual possession thereof or has charge, use, care, occupancy or control of any building, structure or dwelling unit 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 provision of this Ordinance to the same extent as if she was the OWNER.

SECTION THREE.

A. It shall be unlawful for any person or owner to create, continue, cause, maintain, or permit any nuisance at any place within the Borough of New Alexandria.

SECTION FOUR.

A. Whenever an inspection discloses that a building or structure has become a nuisance, the Code Enforcement Officer shall issue a written notice to the person or persons responsible therefore. 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 or building or structure;
- (4) May contain an outline of remedial action that, if taken, will affect compliance with the provisions of this Ordinance.
- (5) Shall be served upon the owner, his agent, the occupant or lessee as the case may require:

(a) Except in emergency cases, where the owner, occupant, or lessee is not absent from the Borough of New Alexandria, all notices shall be deemed to be properly served upon the owner, occupant, lessee or other person having an interest in the nuisance building, if a copy thereof is served upon her personally, if a copy thereof is posted in a conspicuous place in or about the structure effected by the notice, or if she is served with such notice by any other method authorized under the laws of the Commonwealth of Pennsylvania regarding the service of process.

(b) Except in emergency cases, where the owner, occupant, or lessee is absent from the Borough of New Alexandria, all notices or orders provided herein shall be sent by regular United States Mail postage prepaid, Certified United States Mail postage prepaid to the owner, occupant, lessee or other persons having an interest in said building as shown by the records of the Recorder of Deeds of Westmoreland County or the Westmoreland County Tax Claim Bureau to the last known address of each and a copy of such notice shall be posted in a conspicuous place on the nuisance building to which it relates or if she is served with such notice by any other method authorized under the laws of the Commonwealth of Pennsylvania regarding the service of process.

B. If the nuisance building or structure is deemed to be a danger to the health, safety or general welfare of its' occupants or the public and is so identified with a placard prepared by the Borough of New Alexandria's Code Enforcement Officer, it shall be ordered to be vacated within such length of time not exceeding thirty (30) days or as is reasonable. No dwelling or dwelling unit which has been placard 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 Code Enforcement Officer. The Code

Enforcement Officer shall remove such placard whenever the defect or defects upon which the placard action were based have been eliminated.

C. If a nuisance building or structure is fifty (50%) percent or more damaged or decayed or deteriorated from its' original condition, or if it cannot be repaired so that it will no longer exist in violation of the terms of this Ordinance, or if the building or structure is a fire hazard, or is existing or erected in violation of the terms of this Ordinance, by any ordinance of the Borough of New Alexandria 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 exceeds 50% of the fair market value of the building at the time the demolition is proposed.

D. Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health or safety, he may, without notice or hearing, issue an order to rectify the existence of such an emergency and to require that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. The cost of such emergency abatement shall be collected in the same manner as provided herein and for other costs.

E. If the owner does not comply with the notice to abate the nuisance within the time limit prescribed, the Borough of New Alexandria shall have the authority to take measures to correct the conditions and to collect the cost of such corrections plus ten (10%) percent of all costs. The Borough of New Alexandria in such event and pursuant to its' authorized police powers shall have the right and power to enter upon the offending premises to accomplish the foregoing. No person shall remove or deface the placard placed upon a nuisance building pursuant to Section Four, paragraph B except as provided in Section Four, paragraph B by the Code Enforcement Officer.

SECTION FIVE.

A. With respect to all other NUISANCES as defined in this chapter, the Code Enforcement Officer shall issue a written notice to the person or persons responsible therefore. 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;
- (4) May contain an outline of remedial action, if taken will affect compliance with the provisions of this Ordinance.

(5) Shall be served upon the owner, his agent, the occupant or lessee as the case may require:

(a) Except in emergency cases, where the owner, occupant, or lessee is not absent from the Borough of New Alexandria, all notices shall be deemed to be properly served upon the owner, occupant, lessee or other person having an interest in the nuisance premises, if a copy thereof is served upon her personally, if a copy thereof is posted in a conspicuous place in or about the premises effected by the notice or if she is served with such notice by any other method authorized under the laws of the Commonwealth of Pennsylvania regarding the service of process.

(b) Except in emergency cases, where the owner, occupant, or lessee is absent from the Borough of New Alexandria, all notices or orders provided herein shall be sent by regular United States Mail postage prepaid, Certified United States Mail postage prepaid to the owner, occupant, lessee or all other persons having an interest in said premises as shown by the records of the Recorder of Deeds of Westmoreland County or the Westmoreland County Tax Claim Bureau to the last known address of each and a copy of such notice shall be posted in a conspicuous place on the nuisance premises to which it relates or by any other method authorized under the laws of the Commonwealth of Pennsylvania regarding the service of process.

B. Whenever the Code Enforcement Officer finds that an emergency exists, which requires immediate action to protect the public health or safety, he may, without notice or hearing, issue an order rectifying the existence of such an emergency and require that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. The cost of such emergency abatement shall be collected in the same manner as provided herein and for other cases.

C. If the owner does not comply with the notice to abate the nuisance within the time limit prescribed, the Borough of New Alexandria shall have the authority to take measures to correct the conditions and to collect the cost of such corrections plus ten percent (10%) of all costs. The Borough of New Alexandria in such event and pursuant to its' authorized police powers shall have the right and power to enter upon the offending premises to accomplish the foregoing.

SECTION SIX.

A. Any person, firm or corporation who violates any provision of this ordinance shall be guilty of an offense, and for every such offense shall upon conviction, shall pay a fine of not less than \$300.00 and not more than \$1,000.00 plus costs and, in default of payment thereof, to a term of imprisonment not to exceed thirty (30) days; provided that each day's violation shall constitute a separate offence and notice to the offender shall not be necessary in order to constitute an offense. In the event that such claims for fines

and costs exceed the monetary jurisdiction of a Magisterial District Judge as set forth in the Pennsylvania Judicial Code relating to Jurisdiction and Venue (exclusive interests, costs or other fees) the New Alexandria Borough may bring such action in the Court of Common Pleas of Westmoreland County or may, pursuant to the Pennsylvania Judicial Code, waive that portion of fines or penalties that exceeds the monetary jurisdictional limits so as to bring the matter within the monetary jurisdiction of the Magisterial District Judge.

SECTION SEVEN.

A. If the premises are owned by more than one owner, each owner shall be separately subject to prosecution for a violation of this Ordinance.

SECTION EIGHT.

A. In the event that any provision, section, sentence, clause or part of this Ordinance is held to be invalid, such invalidity shall not effect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Borough Council of New Alexandria, of Westmoreland County, Pennsylvania, that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION NINE.

A. The remedies provided herein for the enforcement of this Ordinance or any remedy provided by law should not be deemed mutually exclusive, rather, they may be employed simultaneously or consecutively at the option of the Borough of New Alexandria.

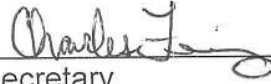
This Ordinance shall be effective within fourteen days from the date of adoption.

ADOPTED AND ENACTED by the Council of the Borough of New Alexandria,
County of Westmoreland, Commonwealth of Pennsylvania, on the 11th day of
November, 2020.



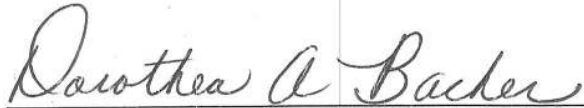
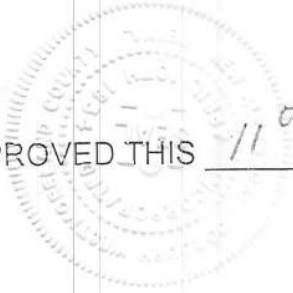
President

ATTEST



Secretary

APPROVED THIS 11th DAY OF November, 2020.



Mayor