

PART 8

Offenses and Nuisances

Chapter 1. Offenses
Chapter 2. Nuisances

CHAPTER 1

Offenses

ARTICLE A

Weapons

Section 8-1001 Restrictions on use of certain weapons.
Sections 8-1002 through 8-1010 reserved.

ARTICLE B

Use of Intoxicants

Section 8-1011 Consumption of alcoholic beverages or drinks
on streets and sidewalks prohibited.
Sections 8-1012 through 8-1020 reserved.

ARTICLE C

Tampering with and Injury to Property

Section 8-1021 Unlawful to tamper with public property or property
on street, sidewalk or public ground.
Section 8-1022 Unlawful to tamper with stakes, posts or monuments.
Section 8-1023 Unlawful to tamper with warning lamps, signs or
barricades.
Section 8-1024 Unlawful to take earth, stone or other material
from street, alley or public ground.
Section 8-1025 Certain activities not unlawful.
Section 8-1026 Penalty for violation.
Sections 8-1027 through 8-1040 reserved.

ARTICLE D

Curfew

Section 8-1041 Curfew established for persons under 18 years of age.
Section 8-1042 Unlawful acts by parents and guardians.
Section 8-1043 Detention of parents and guardians.
Section 8-1044 Restrictions on confinement of minors.
Section 8-1045 Penalty for violation.
Section 8-1046 Conformity with law and court decisions.

(8-1001)

ARTICLE A

Weapons

Section 8-1001 Restrictions on use of certain weapons.

(a) No person shall willfully discharge any gun or other firearm anywhere within the limits of the borough except: (1) in lawful defense of person or property; or (2) by licensed hunters in areas of the borough where hunting is not prohibited.

Sections 8-1002 through 8-1010 reserved.

ARTICLE B

Use of Intoxicants

Section 8-1011 Consumption of alcoholic beverages or drinks on streets and sidewalks prohibited.

It shall be unlawful for any person to consume any alcoholic beverage or drink upon any street or sidewalk in the borough.

Sections 8-1012 through 8-1020 reserved.

ARTICLE C

Tampering with and Injury to Property

Section 8-1021 Unlawful to tamper with public property or property on street, sidewalk or public ground.

No person shall destroy or injury in any way whatsoever, or tamper with or deface any public property of the borough, or of any authority created by the borough, or any grass, shrub, tree, walk, lamp, ornamental work, building, street light, fire hydrant or water or gas stop box on or along any street or alley, or in any park or other public ground in the borough. Provided: "defacement" shall include, but not be limited to, the making of graffiti or other markings upon any of the property referred to in this section or upon the surface of any street, alley, sidewalk or curb in the borough.

Section 8-1022 Unlawful to tamper with stakes, posts or monuments.

No person shall in any manner interfere with or meddle with or pull, drive, change, alter or destroy any stake, post, monument or other evidence of any elevation, grade, line, location, corner or angle in the borough made, placed or set, or in the future made, placed or set, or caused to be done by the authorities of the borough in any survey of or in any street, alley or public ground in the borough, to evidence the location, elevation, line, grade, corner or angle of any public street, alley, sidewalk, curb, gutter, drain or other public work, matter or thing.

Section 8-1023 Unlawful to tamper with warning lamps, signs or barricades.

No person shall willfully or maliciously destroy, remove, deface, obliterate or cover up any lamp, flare, warning sign or barricade erected by the borough or by any person doing work by permission of the borough on any street, alley, sidewalk or bridge in the borough or on any public ground of the borough, within or without the borough, as a warning of danger.

Section 8-1024 Unlawful to take earth, stone or other material from street, alley or public ground.

No person shall take any earth, stone or other material from any street, alley or public ground in the borough.

Section 8-1025 Certain activities not unlawful.

This article shall not apply to normal activities in connection with the construction, maintenance and repair of streets, alleys, sidewalks and public grounds and the structures and fixtures located thereon or to incidental results of work done thereon or therein upon permit from or by authority of the borough.

(8-1026)

Section 8-1026 Penalty for violation.

Any person who violates any provision of this article shall, upon conviction, be subject to the penalty prescribed by Section 1-1008. Provided: the fact that a violator has been penalized, after hearing, as provided in that section, shall not preclude the borough or other injured party from taking proper legal action to recover damages resulting from the violation.

Sections 8-1027 through 8-1040 reserved.

ARTICLE DCurfewSection 8-1041 Curfew established for persons under 18 years of age.

It shall be unlawful for any person under 18 years of age to be or remain in or upon any of the public streets, alleys or public commons in the borough at night after the hour of ten o'clock p.m., unless that person is accompanied by a parent, guardian, or other person having the legal custody of that minor person; or unless that minor person is in the performance of an errand or duty directed by his parent, guardian or other person having the care or custody of him, or whose employment, school activity or extracurricular school activity makes it necessary to be upon the streets, alleys or public commons during the night time after the specified hour; provided that this exception shall not apply when the person under age shall be unnecessarily loitering in or upon any street, alley or public common, whether alone or accompanied by a parent, guardian or any other person or persons whosoever. (Ord. No. 54, 5/14/1975, Sec. 1)

Section 8-1042 Unlawful acts by parents and guardians.

It shall be unlawful for any parent, guardian or other person having legal care or custody of any person under 18 years of age to allow or permit any such child, ward or other person under that age, while in his legal custody, to go or be in or upon any street, alley or public commons in the borough within the time prohibited in Section 8-1041, unless reasonable necessity exists to do so. (Ord. No. 54, 5/14/1975, Sec. 2)

Section 8-1043 Detention of parents and guardians.

The police department of the borough is authorized to detain any person willfully violating Section 8-1042 for a reasonable time in which a complaint can be made and a warrant service. (Ord. No. 54, 5/14/1975, Sec. 3)

Section 8-1044 Restrictions on confinement of minors.

No child or minor person, detained under the provisions of this article shall be placed in confinement until the parent or guardian of that person has been notified of the detention and shall have refused to be held responsible for the observation of the provisions of Section 8-1041 by that minor person. (Ord. No. 54, 5/14/1975, Sec. 4)

Section 8-1045 Penalty for violation.

Any person who violates any provision of this article shall, upon conviction, be sentenced to pay a fine of not less than \$50 or more than \$600 and costs of prosecution, and in default of payment of fine and costs, to imprisonment for not more than 30 days. (Ord. No. 54, 5/14/1975, Sec. 5, as amended by Ord. No. 5-1988, 9/16/1988)

(8-1046)

Section 8-1046 Conformity with law and court decisions.

It is the intent of the borough that the provisions of this article be in accordance with the Borough Code, the Crimes Code of the Commonwealth, and all recent decisions of the court of common pleas, Luzerne County, and the applicable courts of the Commonwealth. (Ord. No. 54, 5/14/1975, Sec. 6)

Note: As enacted, Section 6 of Ordinance No. 54 erroneously referred to the First Class Township Code rather than the Borough Code.

CHAPTER 2

Nuisances

- Section 8-2001 "Nuisance" defined.
- Section 8-2002 Unlawful to create or maintain nuisance.
- Section 8-2003 Removal or abatement of nuisances.
- Section 8-2004 Penalty for violation.
- Section 8-2005 Exceptions.

Section 8-2001 "Nuisance defined.

The word "nuisance," as used in this chapter, shall mean and include any use of property within the borough, or any condition upon property in the borough that, other than infrequently, causes or results in:

- (a) Annoyance or discomfort to persons beyond the boundaries of that property;
- (b) Interference with the health 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; or
- (c) Disturbance to or interference with the peaceful use of the property of others within the borough, in every case taking into consideration the location of the use or condition and the nature and condition of the surrounding neighborhood.

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 sound emanates;
- (2) Operating gasoline-powered lawn mowers or gasoline-powered chain saws on any day before 9:00 a.m.
- (3) Operating model airplanes equipped with gasoline engines on any public street or on any public ground, including any park or playground;
- (4) Keeping or harboring any dog or other animal or fowl which, by frequent howling or barking or other noise or odor, annoys or disturbs the neighborhood or a number of persons;
- (5) Maintaining or permitting the maintenance of any of the following dangerous conditions, structure or premises:
 - (a) open wells or cisterns
 - (b) open excavations
 - (c) unfinished buildings, foundations or other structures

- (d) dangerous placement of materials or equipment
- (e) lakes, ponds or swimming pools not properly safeguarded
- (f) stagnant water in pools in which mosquitoes, flies or insects multiply
- (g) storage or placement of abandoned or junked vehicles on private property so as to create a fire or health hazard or a source of danger to persons likely to be upon that property.

(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 a 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 code enforcement officer. That 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 a manner or in such a 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 material before 5:00 p.m. of the day on which it was deposited upon the street.

(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.

Section 8-2002 Unlawful to create or maintain nuisance.

It shall be unlawful for any person to create, continue, cause, maintain or permit to exist any nuisance at any place within the borough.

Section 8-2003 Removal or abatement of nuisances.

Any person who creates, continues, causes, maintains or permits to exist any nuisance at any place within the borough, shall, within ten (10) days after notice from council to do so, remove or abate that nuisance. If that person fails, neglects or refuses to abate the nuisance within the time limit, council shall have authority, in person or by its agents or employes, to remove or abate the nuisance, and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, council shall collect the cost and expense of abatement or removal from

the person who created, continued, caused or maintained the nuisance or permitted it to exist, that person having failed, neglected or refused to remove or abate the nuisance, with an additional amount of 10%, in the manner provided for the collection of municipal claims, or by an action in assumpsit. Provided: that cost and expense may be in addition to any penalty imposed under Section 8-2004.

Section 8-2004 Penalty.

Any person who violates any provision of this chapter shall be subject to the penalty prescribed in Section 1-1008, which may be in addition to costs and expenses charged under Section 8-2003.

Section 8-2005 Exceptions.

This chapter shall not be construed to be the sole means for abatement of nuisances within the borough, and nothing shall preclude any person from proceeding individually or with other injured persons, to effect the abatement of a private nuisance. Furthermore, in the exercise of the powers conferred, the borough may institute proceedings in equity.