

**BOROUGH OF MOUNT PENN  
BERKS COUNTY, PENNSYLVANIA  
ORDINANCE # 837**

**An Ordinance of the Borough of Mount Penn Adopting the Antietam Valley Blight  
Prevention Program**

WHEREAS, lack of maintenance of properties, including allowing weeds and grass to become overgrown, littering, improper storage of trash and rubbish, storage of inoperable/non-registered vehicles, failure to clean up after pets, and accumulation of snow and ice are costly problems that contribute to the deterioration of property values and general disorder in a community; and

WHEREAS, behavior such as that recited above degrades the physical appearance of the Borough, reduces business and tax revenue, inhibits economic development and negatively affects the quality of life and community pride of the citizens of the Borough of Mount Penn; and

WHEREAS, Council of the Borough of Mount Penn are charged with promoting the health, safety and general welfare of the Borough, its citizens, residents and businesses; and

WHEREAS, the Antietam Valley Blight Prevention Program, hereby created and ordained, will help to create a clean and healthy community for the citizens, residents and businesses of the Borough of Mount Penn;

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Council of the Borough of Mount Penn, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same, as follows:

**Section 1. Definitions.**

The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless context clearly indicates otherwise:

DUMPING - includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, etc.) small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products, and other such solid waste, and construction or demolition debris on public or private property, except as authorized by law.

GARBAGE - discarded animal or vegetable matter resulting from the handling, preparation and cooking of food and other matter that is no longer useful, wanted or needed.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

JUNKED VEHICLE - any vehicle which presents a hazard or danger to the public or is a public nuisance by virtue of its state or condition of disrepair.

The following conditions, if present, are examples of a state or condition of disrepair:

- (1) Rusted and/or jagged metal on or protruding from the body of the vehicle.
- (2) Broken glass or windows on or in the vehicle.
- (3) Leaking of any fluids from the vehicle or deflated or flat tire(s).
- (4) Storage or placement of the vehicle on concrete blocks, or other similar apparatus.
- (5) Harboring of rodents, insects, or other pests.

The foregoing examples are not inclusive of all conditions which may constitute a state or condition of disrepair. See also "motor vehicle nuisance."

LITTER - includes, but is not limited to, all waste material, garbage, trash or other matter that has been abandoned or improperly discarded or disposed.

MOTOR VEHICLE - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

MOTOR VEHICLE NUISANCE - a motor vehicle with one or more of the following defects:

- (1) Broken windshields, mirrors, or other glass, with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.
- (3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
- (4) Protruding sharp objects from the chassis.
- (5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harbourage.
- (6) One or more open tires or tubes which could permit animal harborage.
- (7) Any vehicle suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.
- (8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.
- (9) Disassembled body or chassis parts stored in on or about the vehicle.
- (10) Vehicles that do not display a current valid registration and inspection sticker.
- (11) Such other defects which the Borough reasonably determines to be a danger to the general public or property.

NOTICE OF VIOLATION - a written document issued to a person in violation of a Borough Ordinance that specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

NUISANCE - any condition, structure, or improvement that constitutes a danger or potential danger to the health, safety, or welfare of citizens of the Borough, or causes a blighting effect in the Borough. See also "public nuisance."

PERSON - every natural person, firm, corporation, partnership, association, or institution.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC OFFICER - any police officer, authorized inspector, or public official designated by the Borough to enforce the Borough Property Maintenance Code Ordinances, Building Code Ordinances and this Ordinance.

PUBLIC NUISANCE - any conditions or premises that are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECYCLABLE MATERIAL - material which would otherwise become solid waste, which can be collected, separated, or processed, and returned to the economic mainstream in the form of raw materials or products.

RUBBISH - combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials, as defined by Pennsylvania law.

STORAGE - the containment of any solid waste on a temporary basis in such a manner as not to constitute disposal as such waste.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

**VIOLATION TICKET** - a form issued by a police officer or public officer to a person who violates a provision of this Ordinance. The violation ticket is an offer by the Borough of Mount Penn extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator under any Ordinance of the Borough. Note as provided later herein, the Borough may, but shall not be required to, issue a violation ticket in lieu of a citation.

**VIOLATOR** - a violator shall be any person who violates this Ordinance. A violator may be the owner or the occupant of a property or both the owner and the occupant of a property where the basis of the violation is a condition on or arising from a private property.

**WEEDS** - shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria:

- (1) Exceed ten (10) inches in height.
- (2) Exhale unpleasant noxious odors or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush.
- (3) May conceal filthy deposits or serve as breeding places for mosquitoes, other insects, or vermin.
- (4) Encroaches onto neighboring properties by way of leaders or roots without property owners consent.
- (5) May cause a public nuisance.

Weeds shall not include properly cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

**YARD** - an open space on the same lot with a structure.

## Section 2. Violations.

1. Accumulation of Rubbish or Garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of waste, trash, rubbish, or garbage.

2. Animal Maintenance and Waste/Feces Clean-Up. People owning, harboring, or keeping an animal within the Borough of Mount Penn shall not permit any waste matter/feces from the animal to collect and remain on the property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. All waste from animals must be cleaned up on a daily basis. Further, any person walking a pet on a public street, sidewalk, public property or the property of another shall collect all animal waste matter/feces immediately.

3. Disposal of Rubbish or Garbage/Dumping. Improper disposal of rubbish or garbage, or dumping or disposing of rubbish or garbage on vacant, unoccupied, or other property.

4. High Weeds, Grass or Plant Growth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches (254 mm). All weeds considered to

be noxious by botanical standards shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation. Cultivated flowers, gardens, trees, and shrubs shall not be included as a violation of this Ordinance.

5. Littering or Scattering Rubbish. No person shall throw, dump, place, sweep, or dispose of any waste, trash, garbage, or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or on any public property.

6. Motor Vehicles. Except as expressly provided otherwise in the Borough Zoning Ordinance, it shall be unlawful to store, park, or place any unregistered, uninspected, inoperative, unlicensed, or nuisance motor vehicle on any premises.

7. Outside Placement of Indoor Appliances/Furniture. It is prohibited to store or place any/all appliances or furniture including; but not limited to ranges, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except for the temporary purpose to perform active and substantially continuous maintenance on said property.

8. Ownership Presumption of Waste, Trash, and/or Recyclables for Illegal Dumping and Illegal Hauling. It shall be the responsibility of every owner and/or occupant to dispose of their waste, trash, or recyclables in a proper manner.

9. Littering. No person shall throw, place, sweep, or dispose of litter upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or any public or private property.

10. Snow and Ice Removal from Sidewalks. Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Borough of Mount Penn, is required to remove any snow or ice from their sidewalk within twenty-four (24) hours of the cessation of said snow and ice falling. Furthermore, they must create a path, free from any snow or ice, of three (3) feet on said sidewalk. Should any property be a place of business within the Borough of Mount Penn, all snow and ice must be removed within four (4) hours of the cessation of said snow and ice falling. Any property that is deemed a business must have the entire sidewalk free from any snow and ice. If and/or when the snow and/or ice cessation happens during the hours of darkness, the time limit of removal of all snow and ice begins at daybreak. Snow removed in compliance herewith shall not be pushed or thrown onto a public street.

11. Storage Containers for Waste or Trash. The owner of every premise shall employ safe and sanitary containers for waste /trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and door free at all times.

12. Storing of Recyclables. It shall be the responsibility of the owner of all residential, commercial, and industrial property to ensure storage, collection, and disposal of all recyclables from their property in such a manner not to create a public nuisance.

13. Swimming Pools. Swimming pools shall be maintained in good repair at all times.

### Section 3. Authority for Issuance of Violation Ticket.

Upon finding a violation, any Public Officer of the Borough of Mount Penn, may issue violation tickets to the owner and/or occupant of the property at issue or to the individual(s) known to have violated this Ordinance.

### Section 4. Enforcement.

1. The provisions of this Ordinance shall be enforced by police officers, or any other public officer authorized to enforce ordinances.
2. Any person who disputes the validity of the violation tickets may request a hearing before the Antietam Valley Blight Prevention Ordinance Appeals Hearing Board within five (5) days of the issuance of the violation ticket. Said request must be received in writing by Mount Penn Borough Office within five (5) days of the issuance of the violation ticket.
3. The Antietam Valley Blight Prevention Ordinance Appeals Hearing board shall consist of three members and an alternate. The members and alternate shall be appointed by Mount Penn Borough Council for a one (1) year term. A Quorum of the appeals hearing board shall be three members or two members and an alternate.
4. Notice of the time, date and the location before the Antietam Valley Blight Prevention Ordinance appeals hearing board shall be submitted to the appellant in writing by regular mail.
5. Any violation of the provisions of this Ordinance may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to the violator.

## Section 5. Service.

A violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

## Section 6. Separate Offense.

Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

## Section 7. Abatement of Violation.

- a. Any person or business violating this Ordinance, upon issuance of a violation ticket, shall abate or remedy the violation in question. A Public Officer is authorized and empowered to cause a violation to be corrected.
- b. The Borough of Mount Penn and/or its contractor, per the direction of the Borough, reserves the right to abate the violation in question at the expense of the owner. If the Borough has affected the abatement of the violation, the total cost thereof to include hourly wages and all items and materials used may be charged to the owner of the property, tenant, or offending party. A bill/invoice will be generated to the violator for payment separate from the violation ticket, which will also be paid separately. The Borough reserves the right to charge an additional twenty (20%) percent on all material purchases to cover all miscellaneous expenses, such as wear and tear on equipment. If the offending party fails to pay any abatement charges assessed by the Borough, the Borough may cause a municipal lien to be placed against the property of the offending party and to assess the costs of imposing such lien in accordance with Ordinance No. 653 of the Borough of Mount Penn.
- c. In all instances where the Borough abates the violation, in addition to the fine set forth in the violation ticket, the Borough is authorized to recover from the offending party, the owner of the property, or tenant the abatement charges and such other charges established by this Ordinance.
- d. The Borough of Mount Penn Cleanup. The Borough reserves the right to perform any necessary work to abate any violation once forty-eight (48) hours passes from the date of issuance of the violation ticket.



Should the violation at the discretion of the Public Officer present imminent danger and/or pose a health hazard and/or risk, the Borough reserves the right to perform the abatement immediately. If the Borough has effected the abatement of the violation, the total cost thereof to include hourly wages and all items and materials used may be charged to the owner of the property, tenant, or offending party. A bill/invoice will be generated to the violator for payment separate from the violation ticket, which will also be paid separately.

The Borough reserves the right to charge an additional twenty (20%) percent on all material purchases to cover all miscellaneous expenses, such as wear and tear on equipment. If the offending party fails to pay any abatement charges assessed by the Borough, the Borough may cause a municipal lien to be placed against the property of the offending party and to assess the costs of imposing such lien in accordance with Ordinance No. 653 of the Borough of Mount Penn.

- e. Contractor Cleanup. The Borough reserves the right to direct a contractor to perform the abatement of the violation in question once forty-eight (48) hours passes from the date of issuance of the violation ticket. Should the violation present imminent danger and/or pose a health hazard and/or risk, the Borough reserves the right to direct the contractor to perform the abatement immediately. The contractor will submit a bill for their work to the Borough of Mount Penn and the Borough will forward these costs to the violator. The Borough reserves the right to add a thirty (30%) percent processing fee in addition to the cost of the contractor.

#### Section 8. Fines and Penalties.

A. Any person who violates this Ordinance shall be served a Violation Ticket. Each Violation Ticket shall bear a fine. At the time of the enactment of this Ordinance, the fine borne by each violation shall be twenty-five dollars. Such fine may be amended from time-to-time by resolution of the Borough of Mount Penn Council Members. If the violation is one for which abatement or remediation is required, such violation must be remediated or abated within 48 hours of service of a Violation Ticket to the violator. If the violation is not remediated or abated within said 48-hour-period, an additional fine of like amount shall be assessed for each day that the violation continues. In the event that the Borough remediates or abates the violation, as aforesaid herein, in addition to all accumulated fines, the violator shall direct and indirect costs incurred by the Borough for the remediation or abatement of the violation, as set forth above.

B. Failure of the person to pay a Violation Ticket or to abate a violation of this Ordinance in a timely fashion may result in the issuance of a Notice of Violation and a non-traffic citation under any other Ordinance of the Borough that has been violated, including the Borough's Property Maintenance or Building Code Ordinances.

C. Nothing in this Ordinance shall be deemed to repeal or alter the rights of the Borough to enforce its' other Ordnances, such as its' Property Maintenance or Building Code Ordinances and to issue Notices of Violation and Citations thereunder without first issuing a Violation Ticket under this Ordinance, this Ordinance being intended to be an alternative means of achieving compliance with the Ordinances of the Borough and not a primary or exclusive vehicle therefore.

#### Section 9. Severability.

If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect.

Section 10. All relevant ordinances, regulations, and policies of the Borough of Mount Penn, Pennsylvania not amended shall remain in full force and effect.

Section 11. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 12. This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

Ordained and Enacted as an Ordinance of the Borough of Mount Penn, Berks  
County, Pennsylvania, this 14th Day of February 2017.

**BOROUGH OF MOUNT PENN**

By: Thomas A. Stearns  
Council President

By: [Signature]  
Council Member

By: [Signature]  
Council Member

Attest: Christina Hauck  
Secretary