

Chapter 5

Code Enforcement

Part 1

Property Maintenance

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Part 1**Property Maintenance****§5-101. Title.**

This Part shall be known as the “Hunker Borough Property Maintenance Code.”
(*Ord. 51, 7/10/2008, §1*)

§5-102. Definitions.

1. The following definitions shall apply to the interpretation and enforcement of this Part.

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

Dwelling—any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

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 or sleeping by human occupants.

Garbage—the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Owner—the person who, alone or jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof.

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner or as executor, administrator 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 Part and of any rules or regulations adopted pursuant thereto to the same extent as if he were the owner.

Person—includes any individual, firm, corporation, association, partnership, or other legal entity.

Premises—any property, building or dwelling situated in the Borough of Hunker.

Property—a piece, parcel, lot or tract of land.

Rubbish—combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible material; paper; rags; cartons; boxes; excelsior; rubber; leather; tree branches; yard trimmings; tin cans; metals; mineral material; glass crockery; dust; industrial refuse; dead animals; abandoned machinery or vehicles; or various parts thereof; or such other waste materials not commonly produced in the home.
[*Ord. 2014-01*]

Structure—anything constructed or erected with a fixed or ascertainable location on the ground, whether or not affixed to the ground, including buildings, walls, fences, platforms, decks, billboards, signs and walkways.

2. *Meaning of Certain Words.* All words used in the singular shall include the plural; all words used in the plural shall include the singular; all words referring to a certain gender shall include reference to both genders; whenever the words “dwelling,” “dwelling unit” or “premises” are used in this Part, they shall be construed as though they were followed by the words “or any part thereof.”

(Ord. 51, 7/10/2008, §2; as amended by Ord. 2014-01, 10/2/2014)

§5-103. Grass and Weeds.

The Borough Council of the Borough of Hunker does hereby declare the excessive growth of grass and noxious weeds, plants or undergrowth to be a health hazard to the residents of the Borough of Hunker, particularly in those areas of the Borough zoned or utilized for residential dwelling purposes.

A. *Noxious Weeds; Nuisances.* No person, firm or corporation owning or occupying any property within the Borough of Hunker zoned or utilized for residential, business, commercial or industrial purposes shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of 8 inches or to throw off any unpleasant or noxious odor or conceal any filthy deposit. Any grass, weeds or other vegetation growing upon any such premises within the Borough in violation of any of the provisions of this Part is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough of Hunker.

B. *Encroachment Upon Adjoining Property; Interference.* No person, firm or corporation owning or occupying any property within the Borough of Hunker zoned or utilized for residential, business, commercial or industrial purposes shall permit any trees, bushes or shrubbery, of whatsoever kind or nature, to grow or remain upon such premises so as to encroach upon adjoining sidewalks, streets, highways or alleys in such manner as to interfere with pedestrian or vehicular traffic lawfully using such sidewalks, streets, highways or alleys or in such manner as to restrict the clear view of vehicular traffic using such streets, highways or alleys. Likewise, no property set forth herein shall be permitted to allow any trees or other growth as identified above to cover, conceal or interfere with any fire hydrant or other fire service connection. Any trees, hedges, bushes or shrubbery growing upon any premises zoned or utilized for residential, business, commercial or industrial purposes within the Borough of Hunker in violation of any of the provisions of this Section is hereby declared to be a nuisance and detrimental to the health, welfare and safety of the inhabitants of the Borough of Hunker.

C. *Vacant Premises; Owner’s or Occupant’s Duty.* The owner or occupant of any vacant premises situate in the Borough of Hunker zoned or utilized for residential purposes shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of this Section.

D. *Enforcement; Notice to Cut or Trim.* The Borough Council of the Borough

of Hunker, or a duly appointed representative of the Borough Council of the Borough of Hunker, is hereby designated and authorized to give notice, by personal service or by certified and first class United States Mail, postage prepaid, to the owner or occupant, as the case may be, of any premises subject to the regulations of this Part whereon grass, weeds or other vegetation or trees, hedges, bushes or shrubbery are growing or remaining in violation of the provisions hereof, directing and requiring such owner or occupant to remove, trim or cut such grass, weeds or vegetation or trees, hedges, bushes or shrubbery, so as to conform to the requirements of this Part, within 7 days after the issuance of such notice. For the purpose of notice by mailing, the Borough Council of the Borough of Hunker, or a duly appointed representative of the Borough Council of the Borough of Hunker may utilize the property address, the mailing address of the property owner as the same is set forth in the real estate tax listings or any other source available. Evidence in which service is made shall be maintained as part of the Borough of Hunker records.

E. *Borough of Hunker Empowered to Correct Violation at Owner's Expense.* In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated herein, the Borough Council of the Borough of Hunker through their designate, may remove, trim or cut such grass, weeds or vegetation or trees, hedges, bushes or shrubbery, and the cost thereof, together with any additional penalty authorized by law, may be collected by the Borough from such person, firm or corporation by the filing of a municipal lien against real property which is the subject of said violation.

F. *Violations and Penalties.*

(1) Any person, firm or corporation who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this section shall, upon conviction thereof, shall be sentenced to a fine of not less than \$100 nor more than \$1,000 plus costs, and reasonable attorney's fees, and in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2014-01]

(2) In the enforcement of this Section, the Borough Council of the Borough of Hunker may, at its sole discretion, utilize a citation letter notifying the person responsible as to the violation of this Part and providing that person an opportunity to remedy said violation within 7 days of the date of that notice and to impose a fine of \$50 payable to the Borough of Hunker, without the necessity of a court proceeding and the imposition of attorney fees and court costs.

(Ord. 51, 7/10/2008, §3; as amended by Ord. 2014-01, 10/2/2014)

§5-104. Removal or Repair of Unsafe Buildings.

The Borough Council of the Borough of Hunker does hereby declare that the existence of unsafe buildings and structures, wherever the same may be situate in the Borough of Hunker, constitute a nuisance and hazard to the health, safety and general protection of the residents of the Borough.

A. *Report of Dangerous Conditions; Investigation.* Whenever it shall be reported to the Borough Council of the Borough of Hunker, or a duly appointed representative of the Borough Council of the Borough of Hunker, that any structure, existing or in the process of construction, or any portion thereof, is in a dangerous or unsafe condition, the Borough Council of the Borough of Hunker shall immediately cause an investigation and an examination to be made of such structure. Within 7 days after such investigation and examination has been conducted, the Borough Council of the Borough of Hunker shall direct a notice to the owner and occupant thereof requiring said owner and occupant to commence the repair or removal of such structure within 10 days of such notice and to complete such repair or removal within 90 days thereof; provided, however, that in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure instead of making repairs thereto, within the said time limit.

B. *Service of Notice.* The notice required by this Section shall be served personally or by certified and first class United States Mail, postage prepaid, to the owner or occupant, as the case may be, of the structure or upon the agent of such owner, if such agent has a residence or place of business within the Borough of Hunker. For the purpose of notice by mailing, the Borough Council of the Borough of Hunker, or a duly appointed representative of the Borough Council of the Borough of Hunker may utilize the property address, the mailing address of the property owner as the same is set forth in the real estate tax listings or any other source available. Evidence in which service is made shall be maintained as part of the Borough of Hunker records.

C. *Appeals and Hearings.*

(1) Any person affected by any notice which has been issued in conjunction with the enforcement of this Section may request and shall be granted a hearing on the matter before the Borough Council of the Borough of Hunker; provided, that such person shall file with the Secretary a written petition requesting such a hearing and setting forth a brief statement of the grounds therefore within 10 days of the date the notice was served.

(2) Upon receipt of such petition, the Borough Council of the Borough of Hunker shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 30 days after the day on which the petition was filed. After such hearing, the Borough Council of the Borough of Hunker shall sustain, modify or withdraw the notice. If the Borough Council sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this subsection shall automatically become an order if a written petition for a hearing is not filed with the Secretary within 10 days as aforesaid.

D. *Failure to Repair; Penalty.*

(1) Any person, firm or corporation who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this Section shall, upon conviction thereof, be sentenced to a fine of not more than \$1,000 plus

costs, and reasonable attorney's fees, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense, and in the event of a subsequent conviction thereof, for every such violation that constitutes the same offense, be sentenced to a fine of not more than \$1,000 plus costs, and reasonable attorney's fees, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2014-01]

(2) In the enforcement of this Section, the Borough Council of the Borough of Hunker may, at its sole discretion, utilize a citation letter notifying the person responsible as to the violation of this Part and providing that person an opportunity to remedy said violation within 7 days of the date of that notice and to impose a fine of \$50 payable to the Borough of Hunker, without the necessity of a court proceeding and the imposition of attorney's fees and court costs.

E. *Borough of Hunker Empowered to Repair or Remove at Owner's Expense.* If the owner of any dangerous structure to whom or which a notice to repair or remove such structure shall have been sent under the provisions of this Section, fails to commence or to complete such repair or removal within the time limits prescribed by such notice, the Borough Council of the Borough of Hunker shall be empowered to cause such work or repair or removal to be commenced and/or completed by the Borough of Hunker through their designate, and the cost and expense thereof, with a penalty of 10 percent, shall be collected from the owner of such structure by the filing of a municipal claim against subject property. The recovery of such costs and expenses, together with penalty, costs and reasonable attorney fees, shall be in addition to any penalty imposed under paragraph .D hereof.

(Ord. 51, 7/10/2008, §4; as amended by Ord. 2014-01, 10/2/2014)

§5-105. Motor Vehicles.

The Borough Council of the Borough of Hunker does hereby declare that the storage and collection of junk vehicles on any property situate within the Borough of Hunker is a nuisance and hazard to the health, safety and general protection of the residents of the Borough of Hunker.

A. All vehicles that are required under Pennsylvania law to have a State registration and current inspection in order to be legally driven or pulled on the roads within the Commonwealth of Pennsylvania, must have current registration, and inspection sticker even if the vehicle is not being used by its owner as a means of transportation so long as the vehicle is kept within the Borough of Hunker and not garaged on a permanent basis.

B. Any ungaraged vehicles without a valid registration, and/or inspection sticker as of the date of enactment of this Part must be validly registered, and inspected with 30 days after the enactment date of this Part.

C. Any ungaraged vehicle which does not have a valid registration or State

inspection after 30 days of the enactment date of this Part shall be in violation of this Part and shall be subject to the penalties as set forth herein, unless the owner of such vehicle obtains a special permit from the Secretary granting permission to temporarily have the vehicle within the Borough of Hunker without a valid registration or inspection sticker.

D. Upon application for said permit, a permit may be granted by the Borough of Hunker for a fee, in an amount as established, from time to time, by resolution of Borough Council, per vehicle. Said permit shall be valid for 90 days. Renewal of the permit shall be at the discretion of the Borough Council of the Borough of Hunker. Renewals shall be granted in 90-day extensions, at a fee, in an amount as established, from time to time, by resolution of Borough Council, per vehicle. After the expiration of said permit, any owner having a vehicle without a valid registration and inspection sticker will be found in violation of this Part and subject to penalty. [Ord. 2014-01]

E. All vehicles receiving a special permit in accordance with this Part are required to be covered with a form fitting vehicle cover for the specific type of vehicle in question. All garaged vehicles are to be garaged in accordance with the definition of a building established in §5-102 of this Part. Any vehicle which is permanently garaged within the Borough of Hunker will be exempt from the provisions of this Part.

F. The Borough Council of the Borough of Hunker may prescribe by formal resolution additional rules and regulations dealing with requirements for the obtaining of a special permit under this Part as it deems necessary for the health, safety and general protection of the residents of the Borough of Hunker.

G. *Notification of Violation.* The Borough Council of the Borough of Hunker, or a duly appointed representative of the Borough Council of the Borough of Hunker, is hereby designated and authorized to give notice, by personal service or by certified and first class United States Mail, postage prepaid, to the owner of any unregistered/unlicensed vehicles subject to the regulations of this Part, §5-105, directing and requiring such owner to conform to the requirements of this Part, within 7 days after the issuance of such notice. For the purpose of notice by mailing, the Borough Council of the Borough of Hunker, or a duly appointed representative of the Borough Council of the Borough of Hunker may utilize the property address, the mailing address of the property owner as the same is set forth in the real estate tax listings or any other source available. Evidence in which service is made shall be maintained as part of the Borough of Hunker records.

H. *Violations and Enforcement.*

(1) Any person found by the magisterial district judge to be guilty of a violation of this Section, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs, and attorney's fees, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2014-01]

(2) In the enforcement of this Section, the Borough Council of the Borough of Hunker may, at its sole discretion, utilize a citation letter notifying the

person responsible as to the violation of this Part and providing that person an opportunity to remedy said violation within 7 days of the date of that notice and to impose a fine of \$50 payable to the Borough of Hunker, without the necessity of a court proceeding and the imposition of attorney's fees and court costs.

(*Ord. 51, 7/10/2008, §5; as amended by Ord. 2014-01, 10/2/2014*)

§5-106. Dogs and Animals.

The Borough Council of the Borough of Hunker does hereby declare the running at large of dogs and other domesticated animals within the Borough of Hunker, as well as the placement and collection of animal waste on public property or upon the property of others to be a health hazard and a hazard to the health, safety and general welfare of the residents of the Borough of Hunker.

A. It shall be unlawful for the owners, custodians or keepers of any dogs or animals bearing or not bearing the current license tags, licensed or unlicensed, to allow such dogs or animals to run at large at anytime, either upon the streets or alleys or public grounds of the Borough of Hunker, or upon the property of another than the owner's, custodian's or keeper's of such dogs or animals, unless accompanied by and under the immediate control of such owner's, custodian's or keeper's.

B. It shall be unlawful for the owner, custodian or keeper of such dog or animal to permit said animal to deposit its feces on public property situate in the Borough of Hunker, including all parks, playgrounds, public roadways and other public facilities.

C. Violations and Enforcement.

(1) Any person found by the magisterial district judge to be guilty of a violation of this Section, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs, and attorney's fees, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [*Ord. 2014-01*]

(2) In the enforcement of this Section, the Borough Council of the Borough of Hunker may, at its sole discretion, utilize a citation letter notifying the person responsible as to the violation of this Part and providing that person an opportunity to remedy said violation within 7 days of the date of that notice and to impose a fine of \$50 payable to the Borough of Hunker, without the necessity of a court proceeding and the imposition of attorney fees and court costs.

(*Ord. 51, 7/10/2008, §6; as amended by Ord. 2014-01, 10/2/2014*)

§5-107. Nuisances.

1. "Nuisance" Defined.

A. The word "nuisance" as used in this Part shall mean any use of property within the Borough of Hunker or any condition upon property within the Borough of Hunker that, other than infrequently, causes or results in annoyance or

discomfort to persons beyond the boundaries of that property; 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 disturbance to or interference with the peaceful use of the property of others within the Borough of Hunker, 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 not be limited to, the following:

(1) Operation of any mini-bike, motorcycle, snowmobile, two-wheeled, three-wheeled and four-wheeled vehicles or skid-equipped vehicle in such a manner so as to annoy or disturb the neighborhood or a number of persons.

(2) Keeping or harboring a 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.

(3) Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:

(a) Open wells or cisterns.

(b) Open excavations.

(c) Dangerous placement of materials or equipment.

(d) Any stagnant water in which mosquitoes, flies or insects multiply.

(e) Carrying on any building or road construction, excavation or trenching or the operation of heavy equipment or trucks in connection therewith at any time between dusk and dawn of the following day without a special permit issued by the Secretary. 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 such a manner or in such a place that the public or residents will not be annoyed or disturbed by that construction work.

(f) 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 p.m. of the day on which the material was deposited.

(g) Creation or maintenance of attractive nuisances, which is the leaving of a dangerous instrument which by its character is dangerous and attractive to children and in a place frequented by children.

(4) Any unauthorized accumulation of garbage, rubbish or refuse on or in any street, alley or other public place or upon any private property whether owned by such person or not within the Borough except if it be in proper receptacles for collection or under express approval granted by the Borough Council. [*Ord. 2014-01*]

2. *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 of Hunker. Any unauthorized accumulation of garbage, rubbish, or refuse on any premises is hereby declared a public nuisance and is prohibited. Failure to remove any existing accumulation of refuse within 30 days after the effective date of

this Part shall be deemed a violation of this Part. [Ord. 2014-01]

3. *Removal or Abatement of Nuisance.* Any person who creates, continues, causes, maintains or permits to exist any nuisance at any place within the Borough of Hunker shall, within 10 days after notice from the Borough Council of the Borough of Hunker to do so, remove or abate that nuisance. If that person fails, neglects or refuses to abate the nuisance within the time limit, the Borough Council of the Borough of Hunker shall have authority, in person or by its agents and/or employees, to remove or abate the nuisance and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, the Borough Council of the Borough of Hunker shall collect the cost and expense of the abatement or removal from the person who created, continued, caused or maintained the nuisance and/or permitted it to exist, that person having failed, neglected or refused to remove or abate the nuisance, with an additional amount of 10 percent, in the manner provided for the collection of municipal claims or by an action in assumpsit. The cost and expense may be in addition to any penalty imposed under §5-103.D.

4. *Violations and Penalties.*

A. Any person, firm or corporation who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this Section shall, upon conviction thereof, be sentenced to a fine of not more than \$1,000 plus costs, and attorney's fees, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 2014-01]

B. In the enforcement of this Section, the Borough Council of the Borough of Hunker may, at its sole discretion, utilize a citation letter notifying the person responsible as to the violation of this Part and providing that person an opportunity to remedy said violation within 7 days of the date of that notice and to impose a fine of \$50 payable to the Borough of Hunker, without the necessity of a court proceeding and the imposition of attorney fees and court costs.

5. *Construal of Provisions and Enforcement.* This Section shall not be construed to be the sole means for abatement of nuisances within the Borough of Hunker, 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 powers conferred in this Part, the Borough of Hunker may institute proceedings in equity.

(Ord. 51, 7/10/2008, §7; as amended by Ord. 2014-01, 10/2/2014)

§5-108. Filing of Complaints.

1. Any resident of the Borough of Hunker wishing to file a complaint of a possible violation of this Part may do so in writing, addressing said complaint to the Borough Council of the Borough of Hunker.

2. Said complaint should be delivered to the Secretary, or any other member of the Borough Council of the Borough of Hunker.

3. Due diligence will be given to all complaints, and acted upon accordingly, if and only if they are submitted in writing, and found to be factual.

(*Ord. 51, 7/10/2008, §8*)