

§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

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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.