

ORDINANCE NO. 424 -2011

AN ORDINANCE OF THE BOROUGH OF SHOEMAKERSVILLE, BERKS COUNTY, PENNSYLVANIA DECLARING NUISANCES TO BE ILLEGAL, ESTABLISHING DEFINITIONS AND STANDARDS IN ORDER TO ABATE AND PREVENT NUISANCES, ESTABLISHING MEANS OF REMOVAL THEREOF AND PROVIDING FINES FOR VIOLATION OF THE ORDINANCE, IN ORDER TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE BOROUGH

The Council of the Borough of Shoemakersville does hereby enact:

Section 1. Legislative Findings. The Borough Council of the Borough of Shoemakersville, Berks County, Pennsylvania, finds that removal of nuisances is in the interest of the citizens of the Borough and that removal of nuisances on public and private property promotes the public health, safety and welfare of all residents of the Borough.

Section 2. Definitions. For the purposes of the Ordinance, the following terms, phrases and words and their derivatives shall have the meanings given here. When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

(a) Abandoned Motor Vehicle. Any motorized vehicle which is without a currently valid license plate or plates and/or is in a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. Without limiting the generality of the foregoing, an abandoned motor vehicle shall include any motor vehicle which has any of the following physical defects:

- (1) Broken windshield, mirrors or other glass, with sharp edges;
- (2) One (1) or more flat or open tires or tubes which could permit vermin harborage;
- (3) Missing doors, windows, hood, trunk or other body parts which could permit animal harborage;
- (4) Any body parts with sharp edges including holes resulting from rust;
- (5) Missing tires resulting in unsafe suspension of the motor vehicle;
- (6) Upholstery which is torn or open which could permit animal and/or vermin harborage;
- (7) Broken headlamps or tail-lamps with sharp edges;

(8) Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle;

(9) Protruding sharp objects from the chassis;

(10) Broken vehicle frame suspended from the ground in an unstable manner;

(11) Leaking or damaged oil pan tank which could cause fire or explosion;

(12) Exposed battery containing acid;

(13) Inoperable locking mechanism for doors or trunk;

(14) Open or damaged floor boards including trunk and firewall;

(15) Damaged bumpers pulled away from the perimeter of vehicle;

(16) Broken grill with protruding edges;

(17) Loose or damaged metal trim and clips;

(18) Broken communication equipment antennae;

(19) Suspended or unstable supports;

(20) Such other defects which could threaten the health, safety and welfare of the citizens of the Borough of Shoemakersville.

(b) Enclosed. Having a wall or walk, window or windows and a door used as access to the dwelling.

(c) Nuisance. Any condition or use of premises or of building interiors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following:

(1) Junk, trash or debris.

(2) Abandoned, discarded or unused objects or equipment such as motor vehicles, furniture, stoves, refrigerators, freezers, cans or containers.

(3) Maintaining, or causing to be maintained, any dangerous structures, including but not limited to abandoned, occupied or unoccupied buildings or parts of buildings.

(4) Maintaining, or causing to be maintained, upon any unenclosed porch or exterior attachment, which faces a regularly traveled thoroughfare, furniture, other than furniture designed for exterior use, which is commonly intended for use inside a dwelling, including but not limited to upholstered sofas, chairs, davenport, beds, divans and the like.

(5) The use of a porch roof or other second story or higher portion of a structure for a nondesigned use, unless said porch roof or other portion of structure is specifically designed for said use.

(6) Weeds, grass or other uncultured vegetation not edible or planted for some useful or ornamental purpose, more than ten inches (10") in height when measured from the surface of the ground, provided that weed growth on lawns occurring between mowings shall not constitute a nuisance.

(7) Trees, shrubs, hedges or other vegetation overhanging sidewalks or other pedestrian walkways at a height less than eight feet (8').

(8) Trees, shrubs or other vegetation overhanging a road right-of-way at a height of less than sixteen feet (16'), measured from the street surface at the curb.

(9) Garbage, garbage containers, trash stored in the front of a building on a porch or front yard, except for the twenty-four (24) hours immediately prior to the regularly scheduled collection of trash.

(10) Maintaining more than one (1) unregistered or uninspected motor vehicle(s) on a lot, except for properly licensed new or used car dealers.

(d) Owner. A person owning, living, leasing, occupying or having charge of any premises within the Borough.

(e) Person. Any natural person, firm, partnership, association, corporation, company or organization of any kind.

(f) Porch or Exterior Attachment. Any area attached to or appended to a building regularly used for dwelling.

(g) Porch Roof. A roof at the second story or above on any building, which extends over an unenclosed area.

(h) Regularly Traveled Street. Any street, alley or thoroughfare in which one (1) or more motor vehicles travel during any twenty-four (24) hour period.

Section 3. Illegality of Nuisances. Nuisances, as defined herein, are hereby declared to be illegal.

Section 4. Storage of Abandoned Motor Vehicle Permitted. Any person who has one (1) or more abandoned motor vehicles as defined in this part may store such vehicle in the Borough of Shoemakersville only in strict compliance with the regulations provided herein. Such

person must first apply for a permit for either temporary or permanent storage and pay a fee in the amount of Five Hundred Dollars (\$500.00) per abandoned motor vehicle to the Borough. The abandoned motor vehicle must be stored within a garage or other enclosed building. In addition, all gas and oil or other flammable liquid shall be removed from the abandoned motor vehicle and it shall be kept free of vermin infestation while stored. Nothing herein shall be construed to permit the storage of abandoned motor vehicles contrary to the provisions of the Borough of Shoemakersville Zoning Ordinance.

The Code Enforcement Officer is hereby empowered to inspect the grounds on which motor vehicles are stored to determine if there is compliance with the provisions hereof. Noncompliance of the provisions hereof shall constitute a nuisance.

Section 5. Abatement.

(a) Abatement of Nuisance by Owners. The owner, owners, tenants, lessees and/or occupants of the lot within the Borough upon which a nuisance is found to exist and also the owner, owners and/or lessees of said personalty involved in such storage (all of whom are hereafter referred to as "owners") shall jointly and severally abate said nuisance by the prompt removal of said nuisance.

(b) Abatement of Nuisance by Borough. Whenever said owner(s) shall fail to abate said nuisance, the Borough shall take such action as is necessary to abate said nuisance without liability for damage to the property. The actual costs of abating said nuisance, including actual labor charges, equipment rental charges, postage and twenty-five percent (25%) of the costs for administrative overhead, plus fifty percent (50%) of the total, shall be collected from the owner of the premises either by an action in assumpsit or by filing of a municipal claim or lien against said real property. In addition to the above, the Borough may, by an action in equity, compel the owner to comply with this part or take such other relief as a court may order.

Section 6. Enforcement; Compliance.

(a) Whenever a condition constituting a nuisance is permitted or maintained upon premises situate in the Borough, the Code Enforcement Officer or any other duly authorized law enforcement officer of the Borough of Shoemakersville shall cause written notice to be served upon the owner in one (1) of the following ways:

- (1) By personal delivery of the notice to the owner, tenant or lessee of the premises.
- (2) By leaving the notice with an adult upon the premises.
- (3) By attaching a copy of the notice to the door at the entrance of the premises in violation.
- (4) By mailing, by certified mail, a notice to the last known address of the owner.

(b) Such notice shall set forth in what respects such conditions constitute a nuisance and whether removal is necessary and required by the Borough or whether the situation can be corrected by repairs, alterations or by boarding or fencing or in some other manner confining and limiting the nuisance.

(c) Such notice shall require the owner(s) to commence action, in accordance with the terms thereof, within seven (7) days of the date of notice, and thereafter to complete the work necessary to comply fully with the terms of the notice as soon as is reasonable, but not later than sixty (60) days from the date of said notice, provided that the owner(s) has requested such an extension within the original term for compliance.

(d) The expense of said compliance shall be at the expense of the owner; provided, however, that if a violation requires immediate correction, such notice shall require the owner to immediately comply with the terms thereof.

(e) Notice required hereunder shall be given one (1) time during a calendar year.

(f) Each day shall constitute a separate violation of this part.

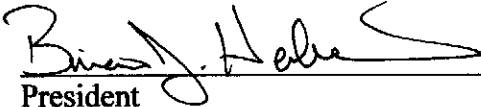
Section 7. Repealer. That any ordinance, or part of ordinance, conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

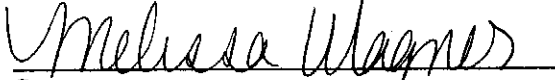
Section 8. Severability. Should any article, section, subsection, paragraph, phrase, term or word contained herein be declared by any court of competent jurisdiction to be invalid or unenforceable, such determination shall not be deemed to affect the validity of the remaining portions of this Ordinance, in whole or in part.

Section 9. Violations and Penalties. Any person violating any of the provisions of this part shall, upon conviction thereof, be punishable by a fine of not less than Three Hundred Dollars (\$300.00) not more than One Thousand Dollars (\$1,000.00) and costs of prosecution and restitution in a case in which the Borough has abated the nuisance in accordance herewith or, upon default of payment of fines, costs and restitution, by imprisonment in the county prison for a period of not more than thirty (30) days.

Section 10. Effective Date. This Ordinance shall become effective as provided by law.

BOROUGH OF SHOEMAKERSVILLE

By: 
President

Attest:

Secretary

Approved this 6th day of December, 2011.

Mayor Richard K. Henderson
Mayor