

ORDINANCE NO. 686**AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCE NO. 335.**

WHEREAS, the City of Harrisburg has reviewed Ordinance No. 335 and has determined that it needs to be replaced with up to date regulations pertaining to nuisances and their abatements,

NOW THEREFORE,

The City of Harrisburg ordains as follows:

Section 1. Definitions.

Person. A natural person, firm, partnership, association or corporation.

Person in charge of Property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project.

Person responsible. The person responsible for abating a nuisance includes:

- (1) The owner.
- (2) The person in charge of property, as defined in this section.
- (3) The person who caused a nuisance, as defined in this ordinance or another ordinance of the city, to come into or continue in existence.

Public place. A building, way, place or accommodation, publicly or privately owned, open and available to the general public.

(Sections 2 to 10 reserved for expansion)

[Sections 2 and 3 repealed by Ordinance No. 851, effective February 10, 2007]

Nuisances Affecting Public Health

Section 11. Nuisances Affecting Public Health. No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person. the following are nuisances affecting public health and may be abated as provided in this ordinance:

- (a) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with DEQ regulation.
- (b) Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.
- (c) Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- (d) Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
- (e) Decayed or unwholesome food offered for human consumption.
- (f) Drainage of liquid wastes from private premises.
- (g) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.

(Sections 12 to 14 reserved for expansion)

Nuisances Affecting Public Safety

Section 15. Creating a Hazard. No person shall create a hazard by:

- (a) Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.
- (b) Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of 4 feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction.

Section 16. Attractive Nuisances.

- (a) No owner or person in charge of property shall permit on the property:
 - (1) Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children.
 - (2) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
 - (3) Any excavation to remain open for an unreasonable length of time without erecting property safeguards or barriers to prevent such excavation from being visited by children.
- (b) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.
- (c) Any nuisance as described in this section may be abated as provided in sections 46 to 50 of this ordinance.

Section 17. Snow and Ice. No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

- (a) Snow to remain on the sidewalk for a period longer than the first twenty-four hours after the snow has fallen.
- (b) Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes, or other suitable material to assure reasonably safe travel.

Section 18. Trees, Shrubs and Weeds.

- (a) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property.
- (b) No owner, occupant, or agent in charge of any lot or land not larger than one acre shall permit upon such property or upon any walkway area abutting such property, any grass, weeds, or other noxious vegetation more than 10 inches in height, and shall remove all dead bushes, trees, sawdust, shavings and other debris of an inflammable character. It shall be the duty of every owner, occupant or agent in charge of the lots or land in the city to cut down or otherwise destroy any noxious weeds and any grass in excess of 10 inches on said property or streets or on the walkways bordering thereon as often as

necessary to prevent such weeds and noxious growth from maturing or going to seed.

- (c) Nothing in this section shall be construed to prohibit lawns containing grass of less than 10 inches in height, or bushes, trees and other shrubbery grown or maintained for ornamental purposes; nor shall it prohibit the growth or maintenance of any vegetation designed for food or fuel purposes, except that the owner, occupant or agent in charge of any real property shall not permit the limbs of any shrub or tree projecting into or extending over the street to interfere with the use of the sidewalk or roadway, or to obstruct a driver's view of any intersection or traffic upon streets approaching an intersection or otherwise to constitute a hazard to the public. Trees shall be trimmed so that the minimum clearance of any overhanging portion thereof shall be 8 feet above the walkway area and 12 feet above the roadway. Hedges and other shrubbery shall not overhang the sidewalk or roadway areas.
- (d) No owner of real property in the city shall allow to remain on his property any weeds, grass or other vegetation over 10 inches in height. In the event a property owner fails to remove weeds, tall grass or other vegetation, the public works superintendent or his designate will cause written notice to be mailed to the property owner that he is in violation of this section and the property owner will be give ten (10) days within which to bring the property into compliance with this ordinance.

At the request of the owner, the public works superintendent or his designate will cause the grass, weeds, or other vegetation to be cut for a fee sufficient to cover the direct cost which is determined to be \$50.00 per hour, with a minimum fee of \$50.00 for any one property, plus \$25.00 administrative fee. The public works superintendent or his designate may cause to be cut any weeds, grass, or other vegetation which is in violation at any time following fifteen (15) days from the date of the notice to remove the weeds, grass or other vegetation. The cost of the removal of said weeds, grass or other vegetation shall be calculated herein at the rate of \$50.00 per hour with a minimum fee of \$50.00, plus \$25.00 administrative fee for any on property and the owner of the property shall be give notice immediately following removal of the grass, weeds, or other vegetation of the charge and failure to pay the same within thirty (30) days such sum will become a lien against the property and may be assessed accordingly.

In the event that it becomes necessary for the public works superintendent or his designate to undertake the cutting and removal of the grass, weeds, or other vegetation from any private lot within the city, the public works superintendent or his designate shall have the right at reasonable times to enter

Upon the completion of the clearing of any real property under the provisions of this section and in the event that the fee is not paid, then the public works superintendent or his designate shall file with the city recorder and thereafter present to the city council an itemized statement of the cost as herein specified. The city council shall thereafter by ordinance determine the reasonableness of the statement of costs and adjust the same if need be and thereupon the amount of the statement as approved by the city council shall be an obligation owned to the city by the owner of the real property involved, and the city shall have a lien upon the real property for such sum and the lien shall be entered in the lien docket and enforced against the property in the manner provided for enforcement of city liens.

The procedure provided for in this section is not exclusive but is in addition to the abatement procedure provided by other ordinances.

Section 19. Scattering Rubbish. No person shall deposit, on public or private property, rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling on a public way.

Section 20. Surface Waters, Drainage.

- (a) No owner or person in charge of a building or structure shall permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.
- (b) The owner or person in charge of property shall install, and maintain in a proper state of repair, adequate drainpipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk.

(Sections 21 to 30 reserved for expansion)

Section 31. Radio and Television Interference.

- (a) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.
- (b) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications commission.

Section 32. Junk

- (a) No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.
- (b) The term "junk" as used in this section, includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.
- (c) This section does not apply to junk kept in a licensed junkyard or automobile wrecking house.

Section 33. Fences.

- (a) No person shall construct or maintain any barbed wire fence or allow barbed-wire to remain as part of any fence along a sidewalk or public way, unless such wire is placed not less than six inches above the top of board or picket fence which is not less than six feet high.
- (b) No person shall install, maintain, or operate any electric fences along a street or sidewalk, or along adjoining property of another person.

Section 34. Obstructing a Water Meter. Access to water meters is necessary to read, maintain and repair the meters and no person shall allow a water meter from which they receive water service to have anything on it or within two feet of it, or in any other

way prevent reasonable access to it. If a water meter is located within a driveway, any obstructing vehicle shall be moved to allow access within 24 hours of notification by the city.

[Section 34 added by Ordinance No. 841, adopted May 26, 2006]

Enumerated Nuisances

Section 45. Unenumerated Nuisances.

- (1) The acts, conditions, or objects specifically enumerated and defined in sections 2 to 44 are declared public nuisances and may be abated by the procedures set forth in sections 46 to 51.
- (2) In addition to the nuisances specifically enumerated in this ordinance, every other thing, substance or act that is determined by the council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this ordinance.

Abatement Procedure

Section 46. Notice.

- (1) On determination by the council that a nuisance exists, the council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the property owner to abate the nuisance.
- (2) At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered or certified mail to the property owner at the person's last known address.
- (3) The notice to abate shall contain:
 - (a) A description of the real property, by street address or otherwise, on which the nuisance exists.
 - (b) A direction to abate the nuisance within 10 days from the date of the notice.
 - (c) A description of the nuisance.
 - (d) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the property owner.
 - (e) A statement that failure to abate a nuisance may warrant imposition of a fine.
 - (f) A statement that the property owner may protest the order to abate by giving notice to the city recorder within 10 days from the date of the notice.
- (4) Upon completion of the posting and mailing, the person posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.
- (5) An error in the name or address of the property owner shall not make the notice void, and in such case the posted notice shall be sufficient.

Section 47. Abatement by the Property Owner.

- (1) Within 10 days after the posting and mailing of notice as provided in section 46, the property owner shall remove the nuisance or show that no nuisance exists.
- (2) The property owner, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the city recorder.
- (3) The statement shall be referred to the council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council. The council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in cases where a written statement has been filed as provided.
- (4) If the council determines that a nuisance in fact exists, the property owner shall abate the nuisance within 10 days after the council determination.

Section 48. Joint Responsibility. If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

Section 49. Abatement by the City.

- (1) If the nuisance has not been abated by the person responsible within the time allowed, the council may cause the nuisance to be abated.
- (2) The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.
- (3) The city recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of \$10.00 or 10 percent of those expenses, whichever is greater, for administrative costs.

Section 50. Assessment of Costs.

- (1) The city recorder shall forward to the owner, by registered or certified mail, a notice stating:
 - (a) The total cost of abatement, including the administrative costs.
 - (b) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
 - (c) That if the owner objects to the cost of the abatement as indicated, a notice of objection may be filed with the city recorder not more than 10 days from the date of the notice.
- (2) No sooner than 30 days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.
- (3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as decided by the council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.
- (4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest to be established by

resolution. The interest shall begin to run from the date of entry of the lien in the lien docket.

- (5) An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, shall remain a valid lien against the property.

General

Section 51. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances. Any city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

Section 52. Penalty. A violation of this ordinance, or an order issued under authority of this ordinance, is punishable by a fine not to exceed \$500.

Section 53. Separate Violations.

- (1) Each day's violation of a provision of this ordinance constitutes a separate offense.
- (2) the abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, then abatement within 10 days of council determination that a nuisance exists, will relieve the person responsible from the imposition of a fine under section 52 of this ordinance.

Section 54. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections or subsections.

Section 55. Repeal. Ordinance No. 335, enacted January 13, 1958; Ordinance No. 512, enacted June 8, 1983; Ordinance No. 589, enacted September 12, 1990; Ordinance no. 422, enacted February 11, 1976; Ordinance No. 495, enacted August 12, 1981; and Ordinance No. 609, enacted November 13, 1991, are repealed.

Section 56. Savings Clause. Notwithstanding section 55, ordinances repealed thereby shall remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated those ordinances prior to the effective date of the ordinance.

Section 57. Effective Date of This Ordinance. This ordinance shall take effect on the thirtieth day after its enactment by the council.

Passed by the council and approved by the mayor June 28, 1995