

ARTICLE 1751
Nuisance Abatement

Nuisance Abatement Board of Appeals

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1751.01 LEGISLATIVE FINDINGS.

(a) The Council finds that public nuisances exist in the City of York in the operation of certain buildings, structures and dwellings and the use and occupation of property in flagrant and persistent violation of state and local laws and ordinances, which nuisances substantially and seriously interfere with the interest of the public in enhancing the quality of life and community environment in the City, and in fostering and facilitating commerce, maintaining and improving property values, and preserving and protecting the public health, safety, and welfare. Council further finds that the persistence of such activities and violations is detrimental to the health, safety, and welfare of the people of the City of York and of the dwellings and businesses thereof and the visitors thereto.

(b) Various code and statutory provisions, including, but not limited to, those found in the Commonwealth of Pennsylvania Crimes Code, the City of York's Property Maintenance Code, and the City of York's Codified Ordinances pertaining to unreasonable noise, disorderly conduct, and litter and weeds, are enforced by the filing of charges and citations against the persons responsible for violations of the same. Council finds that, in spite of enforcement efforts, recurring code and statutory violations on property can lead to the creation of public nuisances on said property. Therefore, it is necessary and desirable in the public interest to enact a public nuisance abatement law in order to: eliminate local public nuisances by removing parcels of real property in the City from a condition that consistently and repeatedly

violates municipal law; make property owners vigilant in preventing public nuisances on or in their property; ensure that property owners are responsible for the use of their property by tenants, guests and occupants; provide locally enforceable remedies for violations of local ordinances; and otherwise deter public nuisances. Council further finds that the sanctions and penalties that may be imposed by the Police Department pursuant to this law constitute an additional and appropriate method of law enforcement in response to the proliferation of the above-described public nuisances. The sanctions and penalties are reasonable and necessary in order to protect the health and safety of the people of the City and to promote the general welfare. (Ord. 18-2012. Passed 7-17-12.)

1751.02 PUBLIC NUISANCE DEFINED.

For purposes of this section, a public nuisance shall be deemed to exist whenever, through violation of any of the following provisions resulting from separate incidents at a building, structure, dwelling erection or place, twelve (12) or more points are accumulated within a period of six (6) months, or eighteen (18) or more points are accumulated within a period of twelve (12) months, in accordance with the following point system. Where more than one (1) violation occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation. For the purposes of this article, an incident will be defined as the execution of an enforcement action in response to a violation of the law. In addition, any property that is determined to be blighted, as defined in the Pennsylvania Urban Redevelopment Law, 35 PS §1712.1(c) or the Property Rights Protection Act, 26 Pa.C.S.A. §205(b) is hereby declared to be a nuisance. (Ord. 18-2012. Passed 7-17-12.)

1751.03 ASSESSMENT OF POINTS.

- (a) The following violations shall be assigned a point value of eight (8) points:
- (1) Title 18 of the Pennsylvania Crimes Code – Firearms and other Dangerous Articles, 18 Pa.C.S.A. §6101 et. seq.
 - (2) Title 18 §911 of the Pennsylvania Crimes Code – Corrupt Organizations
 - (3) Title 18 Chapter 31 of the Pennsylvania Crimes Code – Sexual Offenses
 - (4) Title 18 Chapter 75 of the Pennsylvania Crimes Code – Municipal Housing Code Avoidance, 18 Pa.C.S.A. §7510
- (b) The following violations shall be assigned a point value of six (6) points:
- (1) The Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-101, et. seq.
 - (2) Title 18 of the Pennsylvania Crimes Code - Gambling Offenses.
 - (3) Title 18 of the Pennsylvania Crimes Code - Prostitution Offenses.
 - (4) Title 18 of the Pennsylvania Crimes Code - Criminal Possession of Stolen Property.
 - (5) Title 18 of the Pennsylvania Crimes Code – Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act.
 - (6) Title 18 of the Pennsylvania Crimes Code – Possession, use, sale, or offer for sale of any alcoholic beverage, or of any cigarette or tobacco products.
 - (7) Title 18 §908 of the Pennsylvania Crimes Code – Prohibited Offensive Weapons.

- (8) Title 18 §2705 of the Pennsylvania Crimes Code – Recklessly endangering another person, where the public or neighbors are the victim(s).
- (9) Title 18 §3925 of the Pennsylvania Crimes Code – Receiving Stolen Property.
- (10) Title 18 §4304 of the Pennsylvania Crimes Code – Endangering Welfare of Children.
- (11) Title 18 §6310.1 of the Pennsylvania Crimes Code – Selling or Furnishing Liquor or Malt or Brewed Beverages to Minors.
- (12) Title 18 §4915 of the Pennsylvania Crimes Code – Failure to Comply with Registration of Sexual Offenders Requirements.
- (13) Title 18 Chapter 51 of the Pennsylvania Crimes Code – Offenses of Obstructing Administration of Law or Other Governmental Function.
- (14) Title 18 Chapter 59 of the Pennsylvania Crimes Code – Offenses of Public Indecency.
- (15) Any and all violations filed by Pennsylvania State Police Bureau of Liquor Control Enforcement, including Title 47 – Liquor Code.
- (16) Title 18 §6501 of the Pennsylvania Crimes Code – Scattering Rubbish.

Violations of the Codified Ordinances of York, Pennsylvania contained within the following article:

- (17) Article 715 – Unlicensed Sale of Alcoholic Beverages.

(c) The following violations shall be assigned a point value of four (4) points:

- (1) Title 18 of the Pennsylvania Crimes Code—Noise. Suffering or permitting the premises to become disorderly, including suffering or permitting fighting or lewdness.
- (2) Title 18 Crimes – Cruelty to Animals.
- (3) Title 18 §5503 of the Pennsylvania Crimes Code – Disorderly Conduct.
- (4) Title 18 §5505 of the Pennsylvania Crimes Code – Public Drunkenness and Similar Misconduct.
- (5) Title 18 §6308 of the Pennsylvania Crimes Code – Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages (Underage Drinking).
- (6) Title 18 §3926 of the Pennsylvania Crimes Code – Theft of Services.

Violations of the Codified Ordinances of York, Pennsylvania contained within the following articles:

- (7) Article 713 – Disorderly Conduct and Disturbing the Peace
- (8) Article 714 – Noise
- (9) Article 717 - Dogs

(d) The following violations shall be assigned a point value of three (3) points: Violations of Pennsylvania State Code that are filed by the Animal Complaint Officer

- (1) Pennsylvania Dog Law Act of Dec. 7, 1982, P.L. 784, No. 225 §201 and 205 – Ownership of Unlicensed Dog.
- (2) Pennsylvania Dog Law Act of Dec. 7, 1982, P.L. 784, No. 225 §601(c)(1) – Abandonment.
- (3) Pennsylvania Dog Law Act of Dec. 7, 1982, P.L. 784, No. 225 §801 – False Statements.

- (4) Title 18 §5511 of the Pennsylvania Crimes Code – Cruelty to Animals.
- (5) Pennsylvania Dog Law Act of Dec. 7, 1982, P.L. 784, No. 225 Sections 504-A, 505-A – Dangerous Dogs.

Violations of the Codified Ordinances of York, Pennsylvania contained within the following Articles:

- (6) Section 713.03 – Liquor Consumption in Public Places.
- (7) Section 713.09 – Voiding of Human Excretion.
- (8) Article 705 – Keeping of Animals.
- (9) Article 729 – Litter and Weeds.
- (10) Article 733 – Air Rifles and Sling Shots.
- (11) Article 753 – Streets and Sidewalks.
- (12) Section 1763.02, Chapter 3, Section 302.3.2 – Duty to Clear Snow and Ice; Responsibility.
- (13) Article 1761 – Licensing and Inspection of Tenant Occupied Residential and all Institutional Occupancies.
- (14) Article 1763 – Property Maintenance Code, including permitting persons to be on the premises in excess of occupancy limits.
- (15) Article 729 –Litter and Weeds.
- (16) Article 755 – Police and Fire Alarms.
- (17) Part Fifteen (Articles 1501 and 1512) – Fire Prevention.
- (18) Article 1701 –BOCA National Building Code.

(e) Points shall also be assessed when charges are filed on the federal level instead of the state or local level for any of the activities listed herein.
(Ord. 18-2012. Passed 7-18-12.)

1751.04 CONVICTION NOT REQUIRED.

For purposes of this section, a conviction for an offense in a court of competent jurisdiction shall not be required to establish that a specified violation of law has occurred at a building, erection, dwelling or place. Instead, the City shall be required to prove a specified violation by a preponderance of the evidence. However, a conviction in any court of competent jurisdiction shall constitute conclusive proof of such a violation of law. Conviction of an attempt to commit a violation of any of the specified provisions shall be equivalent to a conviction for a violation of the specified provision.
(Ord. 18-2012. Passed 7-18-12.)

1751.05 POWERS OF THE POLICE COMMISSIONER WITH RESPECT TO PUBLIC NUISANCES.

(a) In addition to any other enforcement procedures established elsewhere, upon determination that a public nuisance, as defined herein, does exist at a property, the Building Code Official or the Building Code Official's designee shall be authorized to order the closing and/or securing of any building, structure, dwelling, erection or place in order to abate the nuisance. The Building Code Official or designee is authorized to cause the premises to be closed and/or secured by the City or by contract or arrangement with private persons. The costs of closing and/or securing the premises, including any reasonable administrative fees, shall be charged against the real estate upon which the structure is located and shall be a lien upon said real estate. If the property is a multi-unit building, the Building Code Official or designee shall only secure the offending unit or units and not the entire building. The length of time that the premises are closed and/or secured pursuant to this section shall be at the City's discretion, but in no event shall the closing and/or securing of the premises be for more than one year from the date of the posting of the order closing and/or securing the premises.

(b) If a building, structure, dwelling, erection or place is ordered closed and/or secured pursuant to this section, such order shall be posted at the building, structure, dwelling, erection or place where the public nuisance exists. If the property is a multi-unit building, such order shall be posted on the offending unit or units. The order shall also be served upon the property owner pursuant to Section 1751.06.

(Ord. 18-2012. Passed 7-18-12.)

1751.06 NOTICE.

(a) Points become officially assessed against a property whereupon the City provides notice of such assessment as provided in subsection (c) hereof to the property owner of such assessment.

(b) Whenever the Building Code Official or designee determines that there exists a public nuisance as defined herein, he/she shall serve notice as provided in subsection (c) hereof. The notice shall specify the type of nuisance being maintained or permitted on the premises, summarize the evidence, including advising the property owner of the violation(s) that are alleged to have occurred on the property and the date of the violation(s), the points that were assessed to the property as a result of the violation(s), inform the owner that failure to abate the violation(s) may subsequently lead to the closure and securing of the property, and the notice shall inform the owner of his/her right to request a reconsideration of the imposition of points pursuant to subsection (d) hereof. In addition, with respect to the reconsideration of points, the notice shall advise the owner that, should the owner take all reasonable and available steps to terminate the public nuisance activity, including immediately repairing the property if the property is in violation of any local or state codes or commencing an eviction action to terminate the lease of any tenant who is permitting or maintaining the public nuisance activity on the property, the City will positively consider such remedies taken by the owner when determining whether to remove the initial assessment of points from the property.

(c) Method of Service: Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally; or
- (2) Sent by certified or first-class mail addressed to the last known address; or
- (3) If the notices are returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(d) Upon the initial assessment of points, a property owner may, within fifteen (15) business days of receiving notice of such points, make a written request to the Building Code Official for the City to reconsider the imposition of points. If the initial assessment of points were for a combination of Criminal and Building, Housing, Plumbing, Fire or other related Codes violations, the Building Code Official may consult with either the Building Official, Police Chief/Commissioner and/or the Fire Chief when reconsidering the imposition of points. The City shall, within thirty (30) days, issue a written decision as to whether the assessment of points was merited or whether the property owner has taken reasonable and available actions as to necessitate the removal of the points. No reconsideration of points shall occur after the initial assessment of points.

(e) The Building Code Official or designee shall maintain on the City website and/or in written form, available for public view, a current list of all properties against which points have been assessed, the dates that points were assessed, the number of points against the property, an indication of points that are under review for reconsideration or under appeal to the Board of Appeals, and the appropriate office to contact for detailed information on the alleged violations.

(f) Once a property has accumulated enough points to be deemed a public nuisance as defined herein, the City shall serve the property owner a Notice of Closure pursuant to Section 1751.06(c) of this article. The Notice of Closure shall advise the owner of the violations that occurred at the property, the dates of the violations, the points that were assessed to the property as a result of the violation(s), and the City's remedies it can invoke under Section 1751.05 of this article so as to abate the public nuisance. In addition, the Notice of Closure shall inform the owner of his/her right to appeal the Notice of Closure and the determination that the property constitutes a public nuisance to the Nuisance Abatement Board of Appeals within ten (10) days from the date of said notice. (Ord. 18-2012. Passed 7-17-12.)

1751.07 PRESUMPTION OF OWNERSHIP.

The owner of the property affected by the orders hereunder shall be presumed to be the person in whose name title real estate is recorded in the Office of the Recorder of Deeds in and for York County, Pennsylvania. (Ord. 18-2012. Passed 7-17-12.)

1751.08 LACK OF KNOWLEDGE NOT A DEFENSE.

The lack of knowledge of acquiescence or participation in or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgagees and all those persons in possession or having charge of the property as agent or otherwise, or having any interest in the property, real or personal used in conducting or maintaining the public nuisance, shall not be a defense by such owners, lessors and lessees, mortgagees, and such other persons. (Ord. 18-2012. Passed 7-17-12.)

1751.09 REMOVAL OF POINTS.

The points assessed to the property shall remain on the property if:

- (a) The property owner fails to request a reconsideration of the points by the City pursuant to Section 1751.06(d);
- (b) Following the property owner's request for reconsideration under Section 1751.06(d), the City determines that the points assessed to the property were merited; or
- (c) Following an appeal to the Board, the Board does not reverse the City's determination that the property constitutes a public nuisance as defined herein.

The points remain on the property for approximately one year after the points become officially assessed against a property as provided in Section 1751.06(a). After one year, the City shall remove the points assessed to the property. (Ord. 18-2012. Passed 7-17-12.)

1751.10 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any building, structure, dwelling, erection or place that has points currently assessed to it pursuant to this article to sell, transfer, mortgage, lease or otherwise dispose of the premises to another individual or entity until the owner has furnished the grantee, transferee, mortgagee or lessee with a true copy of any notices of points assessments or notices of closure issued by the City pursuant to this article within the last two years, and with any written decisions issued by the Board within the last two years declaring the premises to be a public nuisance. The owner shall furnish to the Building Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notices of points assessments, notices of closure, or Board decisions and fully accepting the responsibility without condition for making the necessary repairs or taking such necessary actions so as to prevent the premises from becoming or remaining a public nuisance. (Ord. 18-2012. Passed 7-17-12.)

1751.11 NUISANCE ABATEMENT BOARD OF APPEALS.

(a) The Board shall consist of three members and two alternates to be appointed by the Mayor with the advice and consent of Council. Initial appointments to the Board shall be made as follows: One member shall be appointed for a term of one year; one member shall be appointed for a term of two years; and one member shall be appointed for a term of three years. Subsequent appointments or reappointments shall be made for terms of three years. Alternate members shall serve one-year terms. A vacancy shall be filled for an expired term in the manner in which the original appointment was made. A simple majority of the Board shall constitute a quorum.

(b) The Board shall establish such rules and regulations for its own procedure not inconsistent with the provisions of this article.

(c) At the hearing, the Board shall determine whether the points were properly assessed to the property and whether the property constitutes a public nuisance as defined herein.

(d) If the Board concludes that the property constitutes a public nuisance, the Board may make a recommendation to the City as to whether the City should invoke the remedies available to it under Section 1751.05 of this article or enter into a Nuisance Abatement Agreement with the property owner as provided by Section 1751.12 hereof. Although not binding, the City may take the Board's recommendation into consideration when determining the proper remedy so as to promptly abate the public nuisance.

(e) The Board shall reach a decision at the hearing, and said decision shall be set forth in writing within thirty (30) days of the hearing. Every decision of the Board shall be final, subject, however, to such remedy as any party may have at law.
(Ord. 18-2012. Passed 7-17-12.)

1751.12 NUISANCE ABATEMENT AGREEMENT.

At any time and at the City's discretion, the City may enter into a written Nuisance Abatement Agreement with the property owner wherein the property owner agrees to take specific actions, as approved by the City, to abate, terminate or eliminate the public nuisance activity on the property in exchange for the City of York reserving its rights and agreeing not to initiate any of its enforcement remedies pursuant to Section 1751.05 of this article against the property during the term of the Agreement, provided that the property owner complies with the terms and conditions of the Nuisance Abatement Agreement and the conditions or violations causing the public nuisance activity on the property are abated, terminated or eliminated. (Ord. 18-2012. Passed 7-17-12.)

1751.13 VALIDITY.

If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

(Ord. 18-2012. Passed 7-17-12.)

1751.99 VIOLATIONS; PENALTY.

(a) In addition to any other remedy provided by state, federal or local law, it shall be a violation of this article for any person to use or occupy any building, erection, dwelling or place, or portion thereof, which has been closed or secured pursuant to Section 1751.05 herein.

(b) It shall be a violation of this article for any person to mutilate or remove a posted order provided hereunder.

(c) Any person who violates subsection (a) or (b) hereof shall be fined not less than one hundred dollars (\$100.00) per offense nor more than one thousand dollars (\$1,000) per offense, plus costs of prosecution and, in default of payment thereof, shall be imprisoned for not more than six (6) months, or both.

(Ord. 18-2012. Passed 7-17-12.)