

**BOROUGH OF GREENCASTLE
FRANKLIN COUNTY PENNSYLVANIA**

ORDINANCE NO. 2010-02

AN ORDINANCE OF THE BOROUGH OF GREENCASTLE,
FRANKLIN COUNTY, PENNSYLVANIA, AMENDING CHAPTER 132 OF THE CODE OF
THE BOROUGH OF GREENCASTLE

WHEREAS, in the interest of public health, safety, and welfare, the Council of the Borough of Greencastle desires to amend Chapter 132 of the Code of the Borough of Greencastle (the "Code") to include property maintenance provisions; and

WHEREAS, the Borough is specifically granted the power to enact property maintenance regulations in accordance with 53 P.S. § 46202(24); and

WHEREAS, the Borough also desires to amend the nuisance provisions of Chapter 132 of the Code and prohibit nuisances and dangerous structures in accordance with 53 P.S. § 46202(4) and (5); and

WHEREAS, the Borough also desires to amend Chapter 132 of the Code to provide for the continued prohibition of accumulations of garbage and other refuse material and provide for the removal thereof in accordance with 53 P.S. § 46202(10) and (11).

BE IT ENACTED AND ORDAINED, by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: Chapter 132 of the Code of the Borough of Greencastle, entitled Nuisances, is hereby amended so that the title states "Property Maintenance".

SECTION II: Section 132-1 of the Code of the Borough of Greencastle, entitled Definitions and Word Usage, is hereby amended as follows:

A. The title of Section 132-1 is hereby amended so that the title states, "Appointment of Chief Code Enforcement Officer".

B. Section 132-1 is hereby amended so that the section states:

For the purposes of this Chapter, Borough Council shall appoint a chief code enforcement officer for enforcement of the Property Maintenance Code. The chief code enforcement officer shall have the authority to appoint one or more deputies who shall have powers as delegated by the chief code enforcement officer. Council may choose to contract with a code inspection agency to assist the chief code enforcement officer in enforcing the provisions of this code.

SECTION III: Section 132-2 of the Code of the Borough of Greencastle, entitled Nuisances declared illegal, is hereby amended as follows:

A. The title of Section 132-2 is hereby amended so that the title states, "Duties of the Chief Code Enforcement Officer".

B. Section 132-2 is hereby amended so that the section states:

The Chief Code Enforcement Officer is hereby authorized and directed to enforce the provisions of this code and shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions, provided however that such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code.

C. Section 132-2.1, entitled Nonroadworthy vehicle nuisances is hereby deleted.

SECTION IV: Section 132-3 of the Code of the Borough of Greencastle, entitled Enforcement, is hereby amended as follows:

- A. The title of Section 132-3 is hereby amended so that the title states, "Definitions".
- B. Section 132-3 is hereby amended so that the section states:

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent 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. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

BOROUGH

The Borough of Greencastle.

BOROUGH COUNCIL

The Council of the Borough of Greencastle.

DEBRIS

Whole or partial pieces of, stone, glass, wood or other material resulting from destruction, demolition or remnants of building or construction.

ENCLOSED

Having a wall or walls, window or windows and a door used as access to the dwelling.

EXTERIOR PROPETY

The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE

The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

IMMINENT DANGER

A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION

The presence within or contiguous to a structure or premises of insects, rats, vermin, or other pests.

JUNK

Includes, but is not limited to, any discarded material or article, including but not limited to unused or abandoned machinery, equipment, or appliances and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial wastes, and any other salvageable material, unless for resale. Junk shall not include refuse or garbage kept in a proper container for the purpose of prompt disposal.

NEGLECT

The lack of proper maintenance for a building or structure.

NONROADWORTHY VEHICLE

A vehicle which cannot be driven upon the public streets for reason including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

NUISANCE

The unreasonable, unwarrantable, or unlawful use by a person of his own property, real or personal, or from his own improper, indecent, or unlawful personal conduct, working an obstruction or injury 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, and producing such material annoyance, inconvenience, discomfort or hurt that the law will presume a consequent damage. A nuisance includes but is not limited to the keeping, depositing, or scattering over the premises any of the following:

- A. Dangerous buildings.
- B. Nonroadworthy vehicle.
- C. Violations of building code provisions.
- D. Weeds, brush, or grass in excess of 10 inches in height, which are not edible or planted for some useful or ornamental purpose.
- E. The keeping, depositing, or scattering over the premises of any:
 - 1) Junk, trash, or debris.
 - 2) Abandoned, discarded, or unused objects including but not limited to furniture, appliances, barrels or other containers.
- F. The keeping or maintaining of furniture or appliances designed for interior use on a porch, whether or not enclosed, or upon any other attachment that faces a regularly traveled roadway.
- G. The use of a porch roof or other portion of a structure for a use for which it was not designed.
- H. The storage of trash or garbage containers on a porch or balcony facing the roadway or in the front yard, unless such trash or garbage containers are placed there 24 hours immediately prior to the regularly scheduled trash collection for that dwelling.
- I. Drainage of roofs and paved areas, yards and open courts, and other open areas on premises or on adjacent premises discharged in a manner which causes the erosion of soil, accumulation of stagnant water, or damage to grass and landscaping.

OWNER

Any person, agent, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or Borough as holding title to the property; or otherwise having control for the property, including the guardian of any estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON

Any natural person, firm, partnership, association, corporation, limited liability company, company or any other organization of any kind.

RUBBISH

Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

TRASH

A material whose original purpose has been completed and which has been discarded.

WEEDS

All grasses, annual plants and vegetation, other than trees or shrubs; provided however, this term shall not include cultivated flowers and gardens.

SECTION V: Section 132-4 of the Code of the Borough of Greencastle, entitled Abatement, is hereby amended as follows:

A. The title of Section 132-4 is hereby amended so that the title states, "Nuisances declared illegal".

SECTION VI: Section 132-4 of the Code of the Borough of Greencastle is hereby amended to add a subsection, to be Section 132-4.1 so that the added section will read:

Nuisances, as defined in this chapter, are hereby declared to be illegal.

SECTION VII: Section 132-4 of the Code of the Borough of Greencastle is hereby amended to add a subsection, to be Section 132-4.2 so that the added section will read as follows:

A. Section 132-4.2 shall be entitled "Nonroadworthy vehicle nuisances".

B. Section 132-4.2 (A) shall state: Nonroadworthy vehicle nuisances are hereby declared to be illegal.

C. Section 132-4.2 (B) shall state: To determine whether a vehicle is nonroadworthy and a nuisance in fact, the following conditions shall be considered individually and/or collectively. It shall be considered whether the vehicle has:

- (1) Proper license.
- (2) Current registration.
- (3) Current inspection.
- (4) Broken windshields, mirrors or other glass with sharp edges.
- (5) One or more flat or open tires or tubes that could permit infestation.
- (6) Missing doors, windows, hoods, trunks, or other body parts which could facilitate the harboring of animals and/or other infestation.
- (7) Any body parts with sharp edges, including holes resulting from rust.
- (8) Missing tires resulting in unsafe suspension of the motor vehicle.
- (9) Upholstery that is torn or open which could permit the harboring of animals and/or other infestation.
- (10) Broken headlamps or tail lamps with sharp edges.
- (11) Disassembled chassis parts apart from the motor vehicle stored in an unsafe fashion or loose, in or on the vehicle.
- (12) Protruding sharp objects from the chassis.
- (13) Broken vehicle frames suspended from the ground in an unstable manner.
- (14) Leaking or damaged oil pan or gas tank that could cause fire or explosion.
- (15) Exposed battery containing acid.
- (16) Inoperable locking mechanism for doors or trunk or hood.
- (17) Open or damaged floorboards, including trunk and firewall.
- (18) Damaged bumpers pulled away from the perimeter of vehicle.
- (19) Broken grill with protruding edges.
- (20) Loose or damaged metal trim and clips; broken communications equipment and antenna.
- (21) Suspended on unstable supports.
- (22) Such other defects that may threaten the health, safety and welfare of the citizens of the Borough.

SECTION VIII: Section 132-4 of the Code of the Borough of Greencastle is hereby amended to add a subsection, to be Section 132-4.3 so that the added section will read as follows:

A. Section 132-4.3 shall be entitled "Nuisance Enforcement".

B. Section 132-4.3 shall state:

A. Whenever a condition constituting a nuisance is permitted or maintained upon premises situate in the Borough, the Borough Manager, any officer of the Police

Department, or the code enforcement officer shall cause written notice to be served upon the owner in one 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 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, when directed, 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 of the date directed in 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 under Subsection A. shall be given one time during a calendar year.

F. Each day shall constitute a separate violation of this chapter.

G. Whenever a condition allegedly constituting a nuisance shall remain unabated following notice by the Borough in accordance with §132-4.3A through C, then the abatement procedures of § 132-4.4 shall be instituted.

SECTION IX: Section 132-4 of the Code of the Borough of Greencastle is hereby amended to add a subsection, to be Section 132-4.4 so that the added section will read as follows:

A. Section 132-4.4 shall be entitled "Nuisance Abatement".

B. Section 132-4.4 shall state:

A. The owner, owners, tenants, lessees and/or occupants of any lot or premises within the Borough upon which a nuisance is found to exist and also the owner, owners and/or lessees of said persons 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 the same.

B. Additionally, whenever said owner(s) shall fail to abate said nuisance, the Borough may 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 a penalty of ten percent (10%) of the total of these costs, shall be collected from the owner of the premises either by an action in assumpsit or by the filing of a municipal claim or lien against the real property. Also, the Borough may, by an action in equity, compel the owner to comply with this chapter or take such other relief as a court may order.

SECTION X: Section 132-5 of the Code of the Borough of Greencastle, entitled Violations and Penalties, is hereby amended as follows:

A. The title of Section 132-5 is hereby amended so that the title states, "Unsafe structures and equipment".

B. Section 132-5 is hereby amended so that the section states:

A. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure because the structure contains unsafe equipment or is so damaged, decayed, dilapidate, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. The conditions which may cause a structure to be classified as an unsafe structure include but are not limited to the following:

1. The walking surface of any aisle, passageway, stairway or other means of exit is so warped, warn, loose, torn or otherwise is unsafe as not to provide a safe and adequate means of exit in case of fire or panic.
2. Any portion, section or appurtenance of the building or structure has been damaged by fire, wind, flood or by any other cause to such an extent that it is likely to partially or completely collapse, fail, detach or dislodge.
3. The building or structure, or any part thereof, because of dilapidation, deterioration or decay; or faulty construction; or the removal, instability or movement of any portion of ground necessary for the purpose of such building; or the decay, deterioration or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.
4. The building or structure has been so damaged by fire, wind, flood or other causes or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor of transients or vagrants.
5. The building or structure used or intended to be used for dwelling purposes is unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or other cause.
6. The building or structure creates a fire hazard by virtue of its obsolescence, dilapidated conditions, deterioration, damage or other cause.
7. Any portion of the building, including the foundation, slab or grade, or structure remains on a site after the demolition or destruction of the building or structure.

B. Unsafe equipment includes equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

C. A structure is unfit for human occupancy whenever the code enforcement officer finds that such structure is unsafe, or because of the degree to which the structure is in disrepair or lacks maintenance is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or the public.

SECTION XI: Chapter 132 of the Code of the Borough of Greencastle is hereby amended to add a subsection, to be Section 132-6 so that the added section will read as follows:

A. Section 132-6 shall be entitled "Closing and remediation of unsafe structures and structures unfit for human occupancy".

B. Section 132-6 shall state:

A. When, in the opinion of the Code Enforcement Officer an unsafe structure or a structure unfit for human occupancy exists, the Code Enforcement Officer is authorized and empowered to order and require the occupants to vacate the premises

forthwith. The Code Enforcement Officer shall cause to be posted at each entrance to such structure a notice stating that the structure is unsafe or unfit for human occupation and occupancy is prohibited by the Code Enforcement Officer.

B. The owner of a building, premises or equipment deemed unsafe by the code enforcement officer shall abate, or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective actions. A building permit is required for all such abatement or corrective actions.

C. The code enforcement officer shall remove the notice stating that the structure is unsafe or unfit for human occupancy after abatement or correction of the unsafe condition. Any person who removes the notice without the approval of the code enforcement officer shall be subject to penalties provided by this ordinance.

D. Whenever the owner of a building, premises, or equipment deemed unsafe by the code enforcement officer fails to abate, or cause to be abated or corrected the unsafe conditions, the code enforcement officer shall order the necessary work to be done to abate or correct the unsafe condition without liability for damage to the property. The actual costs of abating or correcting the unsafe condition, including actual labor charges, equipment rental charges, postage and a penalty of ten percent (10%) of the total of these costs, shall be collected from the owner of the premises either by an action in assumpsit or by the filing of a municipal claim or lien against the real property. Also, the Borough may, by an action in equity, compel the owner to comply with this chapter or take such other relief as a court may order.

SECTION XII: Chapter 132 of the Code of the Borough of Greencastle is hereby amended to add a subsection, to be Section 132-7 so that the added section will read as follows:

A. Section 132-7 shall be entitled "Violations and Penalties".

B. Section 132-7 shall state:

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 nor more than \$300, plus costs of prosecution, and, in default of payment of fine and costs, shall be subject to imprisonment for a period not to exceed 30 days. Each day that a violation of this chapter continues shall constitute a separate offense.

C. Any violation of the property maintenance provisions of this Chapter is declared to be a public nuisance and abateable as such.

SECTION XIII: Repealer. All provisions of previous Ordinances of the Borough of Greencastle which are contrary to this Ordinance are expressly repealed.

SECTION XIV: Savings Clause. In all other respects, Chapter 132 of the Code Borough of Greencastle shall remain as previously enacted and ordained.

SECTION XV: Effective Date. This Ordinance shall take effect immediately.

ENACTED AND ORDAINED 1st day of November 2010 by the Council of the Borough of Greencastle, Franklin County, Pennsylvania.

ATTEST:

/S/ Kenneth W. Womack
Kenneth W. Womack, Secretary

/S/ Charles R. Eckstine
Charles R. Eckstine, President

/S/ Robert E. Eberly
Robert E. Eberly, Mayor