

**BOROUGH OF MERCERSBURG
FRANKLIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 10-15

**AN ORDINANCE OF THE BOROUGH OF MERCERSBURG, FRANKLIN
COUNTY, PENNSYLVANIA, REPEALING AND REPLACING ORDINANCE 10-
6 (NUISANCE ORDINANCE) AND ORDINANCE 7-2 (WEED ORDINANCE) AND
ADOPTING UPDATED REGULATIONS GOVERNING NUISANCES,
PROPERTY MAINTENANCE, NONROADWORTHY VEHICLES, HIGH GRASS
AND WEEDS, UNSAFE STRUCTURES, NOTICE PROCEDURES, ABATEMENT,
AND PENALTIES WITHIN THE BOROUGH OF MERCERSBURG**

WHEREAS, the Borough Code, 8 Pa. C.S. § 101, *et seq.*, at Section 1202(5), authorizes the Borough to make regulations as may be necessary for the health, general welfare, cleanliness, convenience, comfort, and safety of the Borough; and

WHEREAS, the Borough Code, 8 Pa. C.S. § 101, *et seq.*, at Section 1202(4), authorizes the Borough to prohibit and remove any nuisance or dangerous structure on public or private grounds, including, but not limited to, accumulations of garbage and rubbish, the storage of abandoned or junked automobiles and obstructions or nuisances in the streets of the Borough; and

WHEREAS, the Borough Code, 8 Pa. C.S. § 101, *et seq.*, at Section 1202(15), authorizes the Borough to adopt and enforce a property maintenance code; and

WHEREAS, the Borough currently has Ordinance 10-6 (formerly Ordinance 240), the Nuisance Ordinance, and Ordinance 7-2, the Weed Ordinance, in effect; and

WHEREAS, the Borough Council of the Borough of Mercersburg has determined it to be in the best interests of the residents of the Borough to repeal and replace said ordinances with a comprehensive nuisance ordinance as set forth below:

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

SECTION 1. Ordinance 10-6 (formerly Ordinance 240), the Nuisance Ordinance, and Ordinance 7-2, the Weed Ordinance, of the Borough of Mercersburg are hereby repealed in their entirety, and replaced with the following

The Code of the Borough of Mercersburg is hereby amended to add a new Chapter 10-6 to be entitled "Nuisances" which Chapter shall provide as follows:

SECTION 2. Definitions; word usage.

For the purpose 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 tense, words in the plural include the singular, and words in the singular include the plural.

APPLIANCE – A stove, refrigerator, television set, furnace, air conditioner, water heater, water softener, washer, dryer, microwave or any household article used to perform any of the necessary domestic work in a household. The term "appliance" shall also mean any article used in business to increase production or to speed, ease, or eliminate work, including but not limited to the specific items aforementioned.

ATTRACTIVE NUISANCE — A nuisance that is dangerous or hazardous to young children because of their inability to appreciate peril and may reasonably be expected to attract them to personal or real property.

DANGEROUS STRUCTURE — Any building or structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health of persons residing in the vicinity thereof or is in a condition that presents a fire hazard.

DISCARDED — Any item resting for 48 hours outdoors, or in an area that is not fully enclosed, which is not designed for outdoor use or which is not being used outdoors for its intended purpose.

GARBAGE – All table refuse, animal and vegetable matter, offal from meat, fish and fowl, fruits, vegetables and parts thereof and all other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.

HOUSEHOLD FURNISHINGS – All items normally found and used in a home or residence.

JUNK – Inoperable, obsolete, or abandoned items that are, being stripped of components, being used or sold for parts, to be sold for scrap, or not being used for their intended purpose.

NONROADWORTHY VEHICLE — Any vehicle that cannot be legally or safely operated on public streets due to lack of registration, inspection, licensing, or due to disrepair or any of the following unsafe conditions:

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

NUISANCE — Any unreasonable, unwarranted, or unlawful condition or activity that causes injury, damage, annoyance, inconvenience, or discomfort to others or diminishes the value or enjoyment of neighboring property including, but not limited to:

- (1) Accumulation of garbage, rubbish, junk, debris, or yard waste stored in a hazardous or unsanitary manner.
- (2) Abandoned or junked vehicles stored in a hazardous manner.
- (3) Nonroadworthy vehicles, as defined in this Ordinance.

- (4) Abandoned or discarded objects including furniture, appliances, or containers.
- (5) Interior furniture placed outdoors or on porches visible from a public roadway.
- (6) Improper use of porches, roofs, or structural elements.
- (7) Improper storage of trash containers.
- (8) Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or material of any kind from property along any public street or alley, into or upon any street, alley, or adjoining property, or any drainage that causes erosion, stagnant water, or property damage.
- (9) Burning of garbage, tires, tar products, or burning any material after dark. Any fire must be attended at all times.
- (10) Maintaining or causing to be maintained any dangerous or dilapidated structure, including but not limited to abandoned, occupied, or unoccupied buildings or parts of buildings.
- (11) Allowing or permitting any excavation to remain open or exposed without the same being secured by a barricade, temporary fence, or other protective materials.
- (12) Harboring, allowing, or permitting dogs or other domestic animals to bark or otherwise make noise which unreasonably disturbs adjacent property owners or otherwise creates a nuisance.
- (13) The emission of noxious fumes, gas, smoke, ashes, or soot in such quantities as to render occupancy of property dangerous to a person of ordinary sensibilities.
- (14) The accumulation of, or improper disposal of, animal waste.
- (15) All disagreeable and obnoxious odors or stench, as well as the conditions which give rise to the emission or generation of said odors and stench.
- (16) Dead or dying trees or other vegetation that may cause a hazardous situation if they fall.
- (17) Any accumulation of stagnant water.
- (18) Any attractive nuisance.
- (19) Any other condition posing a threat to public health, safety, or welfare.

OWNER — Any person or entity having legal or equitable interest in property or otherwise having control of the property, including any tenant, lessee, or occupant of real property.

PERSON — Any natural person, firm, partnership, association, corporation, company, trust, or organization of any kind. The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter, wherever appropriate.

RUBBISH — All waste materials not included in "Garbage" or "Yard Waste."

YARD WASTE — Grass clippings, pruning, leaves and other discarded materials from yards and gardens.

SECTION 3. Nuisances declared illegal.

It shall be unlawful for any person to create, maintain, or allow any condition which is a nuisance.

SECTION 4. High grass, weeds, and vegetation.

A. No person, firm or corporation owning or occupying any property within the Borough of Mercersburg shall permit or cause the following to occur:

1. Any grass or weeds, or any vegetation whatsoever (not edible or planted for some useful or ornamental purpose), to grow or remain upon such premises, or upon the grass plot along the street or sidewalk abutting such premises, so as to exceed a height of 10 inches.
2. Noxious weeds.
 - (a) Any noxious weed, as defined herein, to grow or remain upon such premises.
 - (b) "Noxious weed" shall refer to any of the following:
 - [1] Any weed or vegetation listed as a Class A, B, or C noxious weed at 3 Pa.C.S.A. § 1519;
 - [2] Any weed or vegetation that has been determined by the Pennsylvania Controlled Plant and Noxious Weed Committee to be a Class A, B, or C noxious weed in accordance with 3 Pa.C.S.A. § 1511; or
 - [3] Any weed or vegetation listed as a noxious weed at 7 CFR 360.200.
3. Any grass clippings, tree trimmings, hedge clippings or tree leaves, hereinafter referred to as "yard waste," to be placed into a public street or alley along the curbline in such a manner that the yard waste covers or could cover or enter the stormwater drainage system of the Borough of Mercersburg.
4. Dumping or hosing debris into the storm drain system.

- B.** Any violation of any provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness, comfort and welfare of the inhabitants of the Borough.

SECTION 5. Trash, rubbish, and exterior storage.

- A.** Garbage, rubbish, junk, debris, and yard waste shall not be stored or accumulated in a manner that creates a nuisance or safety hazard.
- B.** Trash containers shall be watertight, rodent-resistant, and stored in the rear or side yard except within twenty-four (24) hours of scheduled collection.
- C.** Interior furniture shall not be stored outdoors or on porches visible from a public roadway.
- D.** Exterior storage of appliances, building materials, scrap, or similar items is prohibited unless stored neatly, not visible from the street, and not creating a nuisance.
- E.** It is further declared unlawful to store, accumulate, or keep outdoors on any property (unless fully enclosed within a building) within the limits of the Borough any scrap material of any kind, any scrapped or used appliances, fixtures, automobile parts, household furnishings, machinery, and machinery parts or other similar material or any other form of discarded or unused or unusable materials (including but not limited to building materials) which by their appearance are unsightly.

SECTION 6. Sidewalk and curb maintenance.

- A.** Property owners shall maintain sidewalks, curbs, and walkways in safe, passable condition, free of tripping hazards, broken or heaved sections, and obstructions including vegetation, snow, ice, or debris.
- B.** Sidewalks and curbs shall be repaired or replaced when ordered by the Borough.
- C.** Vegetation shall not encroach onto sidewalks or public rights-of-way.

SECTION 7. Unsafe structures and habitability.

- A.** A structure is unsafe if it is dangerous to the life, health, property, or safety of the public or occupants because it contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.
- B.** A structure shall be deemed unsafe if any of the following conditions exist:
 - 1. The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe that it does not provide a safe and adequate means of exit in case of fire or panic.
 - 2. Any portion or appurtenance of the building or structure has been damaged by fire, wind, flood, or 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, decay, faulty construction, removal or instability of supporting ground, or inadequate foundation, is likely to partially or completely collapse.
 - 4. The building or structure has been so damaged or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor for transients or vagrants.
 - 5. A building or structure used or intended for dwelling purposes is unsanitary, unfit for human habitation, or 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 obsolescence, dilapidated condition, deterioration, damage, or other cause.
 - 7. Any portion of the building, including the foundation, slab, or grade, or any structure remains on a site after demolition or destruction of the building or structure.
- C.** Unsafe equipment includes equipment on the premises or within the structure that is in such disrepair or condition that it is a hazard to life, health, property, or safety of the public or occupants.
- D.** A structure is unfit for human occupancy whenever the Code Enforcement Officer finds that such structure is unsafe, unsanitary, vermin or rat-infested, contaminated, lacking ventilation, illumination, sanitary or heating facilities, or other essential equipment, or is so located or maintained as to constitute a hazard to its occupants or the public.

- E.** The Code Enforcement Officer may order unsafe or unfit structures vacated, posted, repaired, rehabilitated, or demolished in accordance with this Ordinance.

SECTION 8. Closing and remediation of unsafe structures.

- A.** The Code Enforcement Officer may order a structure vacated and posted as unsafe.
- B.** Owners shall repair, rehabilitate, or demolish unsafe structures.
- C.** Notices may not be removed except by the Code Enforcement Officer.
- D.** If the owner fails to act, the Borough may abate the hazard and recover all costs plus a ten percent (10%) administrative penalty.

SECTION 9. Notice; enforcement; compliance.

- A.** Whenever a condition constituting a nuisance is permitted or maintained in the Borough, the Code Enforcement Officer shall cause written notice to be served upon the owner in one of the following manners:
 - 1. By personal delivery of the notice to the owner.
 - 2. By leaving the notice with an adult upon the premises.
 - 3. By posting a copy of the notice on a door at the entrance of the premises in violation.
 - 4. By mailing a copy of the notice to the last known address of the owner by certified mail or first-class mail.
 - 5. By publishing a copy of the notice in the local newspaper once a week for three successive weeks.
- B.** Such notice shall be in writing and include the following:
 - 1. A description of the real property sufficient for identification, upon which the nuisance exists.
 - 2. A statement of the condition or conditions that constitute a nuisance and why the notice is being issued.
 - 3. A correction order allowing a reasonable time to abate the nuisance and identifying the required corrective action and compliance deadlines.

4. A statement informing the owner that if it becomes necessary for the Borough to abate the nuisance, the Borough may file a municipal lien against the applicable real property in accordance with the Municipal Claims Act, 53 P.S. § 7101 et seq.
- C. Notwithstanding the foregoing, if the circumstances require immediate corrective measures, the notice shall require the owner to immediately comply with the terms thereof.
 - D. Notwithstanding the foregoing, if the violator has not abated or removed the nuisance within the time period for the removal set forth in the notice, the Code Enforcement Official or Mercersburg Police Department may initiate proceedings against such violator in the office of the appropriate Magisterial District Judge. The Code Enforcement Official or his designee(s) are hereby duly authorized to issue a ticket in a form established by the Borough to any owner, occupant, or person causing a nuisance, as applicable, violating the provisions of this chapter. The ticket shall identify the address of the property where the violation exists, as well as the nature of the violation. The ticket may either be handed to an owner or occupant of the property or may be affixed to a door on the property where the violation exists fronting a right-of-way or conspicuously posted on the property. The ticket shall instruct the violator that if the violator reports to the Borough Office and pays to the Borough the sum of \$100 within 10 days of the date of issuance of the ticket, then such payment shall save such violator from prosecution by a citation, which prosecution may result in court costs and attorney fees being assessed against the violator in addition to the fine. In any event, if a ticket is not paid in full within 10 days of issuance, the Code Official or his designee(s) may issue a citation to the violator. Notwithstanding the foregoing, the Code Official or his designee(s) shall have the sole and absolute discretion to issue a citation without first issuing a ticket as provided for herein.

SECTION 10. Appeals and hearing procedures.

- A. Any person aggrieved by a notice or order issued under this Ordinance may request a hearing before Borough Council within ten (10) days of the date of the notice or order.
- B. Borough Council shall hold a hearing within thirty (30) days of receipt of the request.
- C. Borough Council may affirm, modify, extend, or vacate the notice or order.
- D. Emergency orders are not stayed by appeal.

SECTION 11. Abatement and cost recovery.

- A.** Abatement of nuisance by owner. Whenever a nuisance is found to exist, the owner of the property upon which such nuisance exists shall be provided with written notice as provided for herein to abate the nuisance. The nuisance shall be abated by the owner within the time required in the notice.
- B.** Abatement of nuisance by Borough. In the event the owner shall fail to abate said nuisance, the Borough shall take such actions as it deems necessary to abate said nuisance without liability for damage that may result from the abatement. The actual costs of abating said nuisance, including but not limited to actual labor charges, equipment, rental charges, administrative overhead, postage, plus a penalty of ten percent (10%) of the costs and attorney's fees, shall be collected from the owner of the property either by an action in assumpsit, by the filing of a municipal claim or lien against the said real property, or by an action in equity to compel the owner to comply with this Ordinance or to seek such other relief as a court may order.

SECTION 12. Violations and penalties.

- A.** Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00), plus costs of prosecution and reasonable attorney's fees.
- B.** Each day that a violation continues shall be deemed a separate violation.
- C.** Violations are declared public nuisances and may be abated as such.

SECTION 13. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this Ordinance and/or any other remedy, at law and/or in equity, available to the Borough under the laws of the Commonwealth of Pennsylvania shall not be deemed mutually exclusive but rather each remedy may be employed simultaneously or consecutively at the sole discretion of the Borough.

SECTION 14. Conflict and codification.

- A.** Where this Ordinance conflicts with another Borough ordinance, the provision providing the higher standard of protection shall apply.

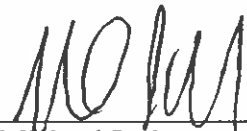
SECTION 15. Severability. The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 16. Repealer. Ordinance 10-6 (formerly Ordinance 240), the Nuisance Ordinance, and Ordinance 7-2, the Weed Ordinance, are hereby expressly repealed in their entirety. All other provisions of previous ordinances of the Code which are contrary to this Ordinance are expressly repealed to the extent of such inconsistency.

SECTION 17. Savings Clause. In all other respects, the Code of Ordinances of the Borough of Mercersburg shall remain as previously enacted and ordained.

SECTION 18. Effective Date. This Ordinance shall take effect immediately upon adoption.

ENACTED, ORDAINED and APPROVED this 13th day of July, 2026.



Michael Pedersen
Mayor


Kelani Craig
Council President

ATTEST:

Matthew Moxley
Borough Manager/Secretary

