

WEST WYOMING BOROUGH ORDINANCE

TO PREVENT NEIGHBORHOOD NUISANCES

NO 1 OF 2013

Section 1. Title:

This Ordinance shall be known and may be cited as the "Ordinance to Prevent Neighborhood Nuisances."

Section 2. Legislative Authority

This Ordinance is enacted pursuant to the authority granted to the Council of the Borough of West Wyoming by the Pennsylvania Borough code.

Section 3. Findings and Purpose

Council has determined that a significant number of persons in the Borough occasionally engage in behavior which constitutes a nuisance. Nuisance behavior includes that behavior which is defined otherwise by statutes and /or ordinance, including but not limited to disturbances of the peace, disorderly conduct, underage drinking, obstruction of public streets by crowds or vehicles, excessive noise, crimes against property or other behavior which threatens the welfare of person or property. Nuisance behavior presents a threat to the health safety and welfare of citizens, and pose a financial burden to the Borough by the calls for Borough services with regard thereto.

Nuisance conduct has a negative effect upon residents and occupants of adjacent and nearby homes and structures, and impacts the quality of neighborhoods, and tends to depress the value of nearby property. To the extent that tenants of property owners are involved in such a nuisance behavior, the landlords who owns the properties in the Borough are in a unique position to help to remedy the problem because they control tenant selection, the terms and conditions of occupancy, and may determine whether to dispossess a tenant.

The Borough of West Wyoming has engaged in a sustained effort to address these and similar issues. Council expects that by discouraging nuisance activity and encouraging local landlords to prevent nuisance behavior caused by their tenants, this Ordinance will combine with other Borough ordinances, the PA Crimes Code, and other acts of legislations to promote neighborhood peace and compatibility, and protect the general health, safety, and welfare of the people of West Wyoming Borough.

Section 4 Definitions

For the purposes of this Ordinance, the words and phrases used therein shall have the following meanings, unless otherwise clearly indicated by the context:

Abate. The term "abate" used herein shall mean to correct, repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation of this ordinance by such means and in such manner as remove any nuisance activity or risk of threats to the peace, welfare and safety of the public.

CONTROL The ability to regulate, restrain, dominate, counteract or govern property or premises, as well as the conduct of others on such property or premises.

DRUG RELATED ACTIVITY Any unlawful activity at a property which consists of or is related to the manufacture, delivery, sale, storage, possession or giving away of any controlled substance as defined by law.

DWELLING UNIT A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

LANDLORD The record owner or manager of premises, lessor or sublessor of a Dwelling Unit, structure which includes multiple dwelling units or other Premises.

NUISANCE Any behavior by an individual or multiple individuals which substantially interferes with the comfort or safety of other residents or occupants of the same or nearby buildings or structures. Conduct of a person or persons on any premises in a manner which is a violation of law, or which creates a disturbance of the quiet enjoyment of private or public property may constitute a nuisance. Such behavior includes, without limitation, disorderly, indecent, tumultuous or riotous conduct, individually or in combination with others, misbehavior, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, the serving of alcohol to underage persons, underage drinking, fights, creating a public disturbance, breach of the peace, trespassing, disorderly conduct, littering, simple assault, the use of threats, harassment, illegal burning prohibited use of fireworks, urinating or defecating in public, lewdness, criminal mischief, crimes against persons or property, or excessive noise. In addition, the following is included in the definition of Nuisance:

- (1) Any nuisance as defined by state law or local ordinances occurring on, around or near a property, including but not limited to, violations of the laws and regulations related to the following:
 - (a) Unauthorized and Junk Vehicles;
 - (b) Fire Code
 - (c) Health and Sanitation
- (2) Any criminal conduct as defined by state law or local ordinances occurring on, around or near a property, including, but not limited to the following activities or behaviors:
 - (a) Stalking
 - (b) Harassment;
 - (c) Failure to Disperse;
 - (d) Disorderly Conduct;
 - (e) Assault;
 - (f) Any Domestic Violent Crimes;
 - (g) Reckless Endangerment;
 - (h) Prostitution;
 - (i) Patronizing a Prostitute;
 - (j) Public Disturbance Noises;
 - (k) Lewd Conduct;
 - (l) Any Firearms/Dangerous Weapons violations;
 - (m) Drug related loitering;
 - (n) Any Dangerous Animal violations;
 - (o) Any Drug related activity
- (3) For purposes of this chapter, "Nuisance Activity" shall not include conduct where the person responsible is the victim of a crime and had no control over the criminal act.

Person responsible for the property or Person responsible means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject of this ordinance, an occupant in control of the property or structure which is subject to this chapter, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this chapter and /or any person who has control over the property and allows a violation of this chapter to continue.

Person. The Term "person" means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them:

- (b) "Premises and property" may be used by this chapter interchangeably and means and public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property.

Premises. A tract of land, including any buildings thereon, appurtenances, grounds, condominium or partial ownership rights, and any public or private property or right of way immediately adjacent to any such tract of land. "Premises" and "property" may be used herein interchangeably and means and public or private building, lot parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property.

Adjacent Premises. Premises contiguous to premises on which there is activity that is a nuisance per this Ordinance, to which said activity has moved or spread, as well as nearby properties affected.

Tenant. The lessee, sub-lessee or person entitled under a rental agreement, written or not, to occupy a dwelling unit or premises to the exclusion of others or as is otherwise defined by law.

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Section 5. Applicability

This ordinance shall apply to any premises situated within the Borough of West Wyoming.

Section 6. Enforcement. Violations. Citations. Fines.

- a) The West Wyoming Police Department shall have the authority to enforce this ordinance.
- b) Any person or persons who engage in a nuisance on any premises or adjacent premises shall violate this Ordinance, and shall be subject to a fine of up to \$300 plus costs associated with prosecution, for each violation.
- c) In the event the nuisance violation occurred at a Dwelling Unit or Premises, and the alleged violator was not the owner, landlord or tenant or a person in control of the Premises, then a copy of the citation(s) issued to the violator shall be delivered to both the tenant and the landlord, or such appropriate person in control of the premises, either by personal service or certified mail, with a warning that the tenant and/or land lord or person in control of the premises may be subject to citation for violation of this ordinance subject to subsection 6(d) herein. The warning shall also require the landlord, tenant or person in control of the premises to contact the Chief of Police within ten (10) days of the notice to discuss the complained of activity and to provide a plan to the Chief of Police as to how the landlord, tenant or person in control of the premises plans to abate the nuisance, or prevent further instances of nuisance.
- d) If a notice is issued to a tenant or landlord, person in control or property owner regarding a violation b a tenant or guest on more than two occasions in any six month period, or more than three times within nine months, or more than four times within one year, as measured from the date of the first instance of violation, then such repeat offenses shall constitute a violation by such tenant, landlord or property owner who shall have received proper notice, and such tenant, landlord or property owner shall be cited with a violation of this Ordinance and subject to a fine of up to \$300, and/or imprisonment of up to 90 days, plus costs associated with prosecution. Each violation thereafter will constitute a separate offense.

Section 7. Severability.

If any portion of this ordinance, or its application to any person or circumstances, is held invalid, the validity of the ordinance as a whole, or any other portion thereof, or the application of the provisions to other persons or circumstances shall not be effected. If any one or more sections, subsection or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect. Any ordinance or resolution or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this ordinance.

ORDAINED AND ENACTED THE 11th DAY OF November, 2013

COUNCIL OF THE BOROUGH OF WEST WYOMING

Elen A.

CHAIRPERSON

ATTEST

Maurice Zakoski

BOROUGH SECRETARY

Joseph Hubert

MAYOR