

**ORDINANCE NO. 360**

**AN ORDINANCE OF THE BOROUGH OF MILESBERG,  
PROHIBITING NUISANCES, PROVIDING PENALTIES FOR VIOLATION, AND  
REPLACING AND REPEALING ORDINANCE NOS. 201, 233 AND 295**

SECTION ONE: Nuisance Prohibited.

- A. No person or municipality or other entity shall cause, permit, exist, maintain, continue to maintain or permit to exist or continue to exist upon land which he or she owns, occupies, or possesses or cause to exist upon public lands or lands which are otherwise leased or occupied, any of the nuisances recognized as such by the Borough of Milesburg, the Common Law or Pennsylvania statute, including but not limited to, the following activities and conditions which are expressly declared to be a nuisance and detrimental to the health, safety and welfare and comfort of the inhabitants of the Borough:
- (1) Accumulations of refuse, debris, garbage or rubbish;
  - (2) The storage of abandoned or junked vehicles, motor vehicles, automobiles, lawn mowers, tractors, trailers, or motor homes, and vehicle parts, including tires (See Ordinance No. 304);
  - (3) The extended storage of scrap metal, machines and parts thereof, electric appliances and parts thereof, electrical components, glass, aluminum or other metal products, products, plastic, cardboard, paper or other recyclable or reusable materials; unless not visible to the general public;
  - (4) The carrying on of offensive or dangerous manufacture, enterprise, or business;
  - (5) The maintenance of any dangerous structure, whether abandoned, occupied or unoccupied; including any dwelling that is unfit for human habitation or commercial building which is unfit for public occupancy and beyond repair;
  - (6) Failing to maintain vacant properties and structures in a manner that does not pose a hazard to the public;

- (6) The offensive operation of un-muffled or illegally muffled motor vehicles and engines;
- (7) Growth and accumulations of grass, weeds and other vegetation whatsoever, not edible or planted for some useful, ornamental or monumental purpose, growing or remaining on such premises, including any portion of the premises occupied by a street or alley, so as to exceed a height of six (6) inches or to emit any unpleasant or noxious odor or to conceal any filthy deposit or to create or to provide pollen;
  - (a.) The owner of such premises, whether or not occupied by the owner; and the occupant(s) thereof in the case of premises occupied by individuals other than the owner, shall remove, trim or cut all such vegetation growing or remaining on such premises in violation of the provisions of Section One (A)(7) of this Ordinance. Both the owner and the occupants in the case of premises occupied by other than the owner shall be responsible for the compliance with these provisions.
- (8) Dangerous or unlawful growth of vegetation encroaching upon a public thoroughfare (See Ordinance No. 352);
- (9) The infestation, harboring, presence or conditions attractive to rats, vermin, insects or other pests in any building or structure, or in any walls enclosing any habitable or occupied room or space in which people live, sleep or work; or in which feed, food or foodstuffs are stored, prepared, processed, served or sold;
- (10) The existence of wells, cesspools, cisterns, sedimentation ponds, storm water management impound ponds and/or ponds of a similar nature that remain open without adequate fencing or barricades to prevent access thereto by the general public;
- (11) The existence of roof, surface and/or sanitary drainage or standing water creating a safety or health hazard to persons or property by reason of inadequate and/or improper construction, maintenance, manner of discharge, or neglect;
- (12) Roof gutters, drains or any other system designed and constructed to transport storm water, being discharged into any sanitary sewage system and/or any part thereof;
- (13) Permitting any refrigerator, freezer, safe and/or similar storage receptacle or chest to be discarded, abandoned or stored in any



place or location which is accessible to the general public without first removing any and all locking devices and/or doors;

- (14) The keeping of cats in a manner that permits cats to wonder, roam and run at large and/or to defecate, urinate or otherwise scratch or dig on any public or private property other than that of the owner or keeper of said cats (See Ordinance No. 356);
  - (15) The keeping, housing or maintenance of dogs, or other animals that bark or make noise that is offensive to a person of normal sensibilities, or allowing such dogs or animals to wander or run at large and/or to defecate, urinate, scratch or dig on any public or private property other than that of the owner or keeper;
  - (16) Unsafe, dangerous and/or unhealthy conditions constituting a violation of the Milesburg Borough Rental Code (See Ordinance No. 358); and
  - (17) Music, noise or other sounds audible off of the premises at a level that would be offensive to persons of normal sensibilities, at unreasonable times and/or for unreasonable durations.
  - (18) The continuous or regular emanation of odors that are offensive to persons of normal sensibilities such as, but not limited to, human or animal feces and urine.
  - (19) The discharge of oils, fuel, petroleum, anti-freeze, and other chemicals or substances from property and onto property of another and/or highways, streets, alleys, sidewalks and/or storm drains or their rights-of-ways.
- B. Nothing contained herein shall be construed to prevent the development of natural resources or the establishment of an industrial plant or plants for the processing of natural resources or other manufacturing business in the Borough of Milesburg, if otherwise lawful.
- C. The enumeration of nuisances in this Section shall not restrict or limit or be deemed to restrict or limit the Borough's right to proceed in an equitable or other action at common law for the abatement of a public nuisance and/or to seek any and all relief available to the Borough at law in addition to the remedies and penalties prescribed in this Ordinance.

SECTION TWO: Responsibilities of Occupants. Any occupant of a premises shall be responsible for compliance with the provisions of this Ordinance with respect to the maintenance of that part of the premises which he or she occupies and/or controls in a safe, sound and/or sanitary condition pursuant to

the terms of the lease, contract, license or other agreement under which they exercise occupancy and/or control thereof.

SECTION THREE: Responsibilities of Owners. The owner of the premises shall comply with the provisions of this Ordinance and any other applicable Ordinances, as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility. If the premises are owned by more than one (1) owner, each owner shall be severally liable and each shall be subject to prosecution for the violation. In instances where an occupant is responsible or shares responsibility with an owner for the existence of one (1) or more violations of this Ordinance, said occupant shall be deemed severally liable with all owners and each shall be subject to prosecution for the violation.

SECTION FOUR: Notice to Owners And Occupants Of Premises.

- A. Upon the discovery of the initial violation on a premises, the authorized agent of the Borough shall give a written notice of warning to the owner and/or occupant of such violation. The owner and/or occupant shall then have 72 hours to abate such violation. Only one written notice of warning relating to a particular type of violation need be given by the Borough in a period of 365 days from the issuance of said written notice.
- B. In the event the owner and/or occupant cannot be ascertained or is not able to be located, a notice shall be published once in each of two (2) consecutive weeks in a newspaper of general circulation in the Borough, advising of the existence of the violation and requiring correction thereof, in accordance with this Ordinance; detailed notice thereof shall also be posted on the subject premises and at the Borough office.
- C. After a period of no less than 72 hours following the issuance of the warning notice, the Borough's authorized agent may inspect the premises for compliance with this Ordinance and any other applicable Ordinances.
  - (1) If, after the 72 hours' warning time, the Borough's authorized agent observes the premises to be in violation, an ordinance violation notice shall be issued to the owner and/or occupant either by personal delivery, by the United States mail directed to the last known address, or by posting the violation notice upon the premises where such violation occurs. Each twenty-four hour period shall constitute a separate violation and an ordinance violation notice may be issued every 24 hours.
  - (2) Upon discovery of a subsequent violation on a specific premises similar in nature to a prior violation that may have been abated, and occurring within 365 days of said prior violation, an ordinance



violation notice shall be issued to the owner and/or occupant in the manner described above. Each twenty-four (24) hour period shall constitute a separate violation and an ordinance violation notice may be issued every 24 hours.

- (3) If such owner and/or occupant shall, within seven (7) days after the delivery, mailing or leaving of such violation notice remedy the violation and pay to the Treasurer of the Borough the sum of \$50.00 for the violation, along with reimbursement of any costs incurred by the Borough; the same will constitute full satisfaction for the violation noted in said notice. The failure of such person to make payment, as aforesaid, within seven days shall render such owner and/or occupant subject to the penalties as provided for in Sections 6 and 7.

SECTION FIVE: Authority of Borough To Eliminate Cause Of Nuisance

In addition to the penalties as hereinafter imposed by this ordinance, the Borough Council, Mayor or any officer or employee of the Borough designated thereby for the purpose, is hereby authorized to give notice by personal service or by United States mail to the owner or the occupant, or either of them, of a violation of the terms of this ordinance, directing and requiring such occupant or owner or both of them to abate any condition constituting a nuisance, so as to conform to the requirements of this ordinance within five (5) days after issuance of such notice. If any such owner or occupant shall neglect to comply with such notice within the period of time stated herein, Borough authorities may take such action as may be required or appropriate to abate the condition constituting a nuisance, so as to comply with the provisions of this ordinance. The Borough may recover the costs incurred to abate the nuisance in compliance with the Ordinance,, as well as interest from the date of completion of the work, and such reasonable attorney fees and expenses as may be incurred by the Borough, together with any additional penalties authorized by law or hereinafter set forth, may be collected by the Borough from such owner or occupants a penalty under the provisions of this ordinance, or in any other manner provided by law, including the filing of a municipal claim lien, pursuant to the Pennsylvania Municipal Claims and Tax Lien Act, 53 P.S. §§ 7101, *et seq.*, for all such amounts against the subject property. This right as herein vested in the Borough shall be in addition to penalties prescribed by the provisions of this ordinance for the failure of the owner or occupant as aforesaid to comply with the terms of this ordinance.

SECTION SIX: Abatement.

- A. It shall be the duty of any person(s) or entity(ies) creating a nuisance and/or of any owner(s) of land upon which a nuisance exists, and/or of any tenant(s) occupying land upon which a nuisance exists to remove such nuisance, including but not limited to, the removal of a dangerous

structure or condition. The Borough, through the Mayor, or any Code Enforcement Officer or other Borough official designated by the Borough Council, shall serve written notice upon the responsible person(s) and/or entity(ies) directing such responsible person(s) and/or entity(ies) to commence action to remove any nuisance within five (5) days after issuance of the written Notice.

- B. Upon failure of the responsible person(s) and/or entity(ies) to comply, the Borough may cause the nuisance to be removed or otherwise abated, and to collect the costs thereof, including attorney fees and court costs incurred by the Borough, together with a penalty of ten (10%) percent of such costs. The Borough, at its option, may proceed in the manner provided for by law for the collection of municipal claims and/or by action of assumpsit, and/or by an action in equity. Any such action taken by the Borough or remedy pursued by the Borough under this Ordinance shall be in addition to such actions and remedies prescribed by the other provisions of this Ordinance and shall be an addition to other such actions and remedies which are or may be provided by law.

SECTION SEVEN: Penalty For Violation. Any person, firm or corporation who or which shall violate any provision of this Ordinance shall upon conviction thereof be sentenced to pay a fine or not less than \$100.00, nor more than \$500.00 and costs of suit including attorney fees, or in default of payment of such fine and costs to undergo imprisonment for not more than thirty (30) days in the county jail provided each violation of a provision of this part and each day the same is continued shall be deemed a separate offense.

SECTION EIGHT: Repealer. Ordinance Numbers 201 (Nuisances), as amended by Ordinance No. 295; and Ordinance No. 233, are hereby repealed.

SECTION NINE: Effective Date. The within Ordinance shall be effective immediately.

BE IT ORDAINED, this 9<sup>th</sup> day of September, 2019, as duly enacted by the Council of the Borough of Milesburg in lawful session assembled.

ATTEST:

BOROUGH OF MILESBURG

  
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Paula J. Hall, Manager/Sec.-Treas.

  
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Fred Kellerman, Council President

  
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Brandon Schadle, Mayor