
Chapter 91 — Nuisances

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Article I — In General

§ 91-101 Prohibited Conditions Generally.

No person shall maintain or permit to be maintained upon any property owned or occupied by him within the Borough of Alburty any condition detrimental to the public health or offering undue risk and hazard to the safety and well-being of the public.

§ 91-102 Violations and Penalties.

(a) **Civil Penalty.** Any person who violates any provision of this Chapter shall be subject to a civil penalty in the amount set forth in subsection (b).

(b) Amount of Penalty. The amount of the civil penalty for any violation of this Chapter shall be—

- (1) Twenty-five Dollars (\$25.00) for a first offense;
- (2) Fifty Dollars (\$50.00) for a second offense; and
- (3) Seventy-five Dollars (\$75.00) for a third or subsequent offense.

(c) Initial Determination of Violation. Council hereby delegates the initial determination of violations under this Chapter to the Borough Manager. The Borough Manager shall serve notice of the violation(s) upon the person determined to have violated this Chapter in person or by first class U.S. mail addressed to that person at his/her last known address. The notice shall include a description of the violation(s), the provision(s) of the Codified Ordinances violated (*i.e.* section, subsection, paragraph, etc.), the penalty imposed for each violation, and the time for payment prior to the commencement of a civil enforcement proceeding. Service shall be complete on the date of in-person service or the date of mailing.

(d) Civil Enforcement Proceeding. When the penalty imposed for a violation(s) of this Chapter is not voluntarily paid to the Borough within fifteen (15) calendar days after service of the violation notice under subsection (c), the Borough Manager shall initiate a civil enforcement proceeding in the name of the Borough before a magisterial district judge (or, where applicable under Borough Code § 3321(5), 53 PA. STAT. ANN. § 48321(5), the Lehigh County Court of Common Pleas). The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person found to have violated this Chapter in the civil enforcement proceeding shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings, in addition to the penalty provided.

(e) Separate Offenses. After the first two violations of this Chapter, each day or portion of a day that a given violation exists or continues shall constitute a separate offense. Each violation of a separate section, subsection, paragraph, or other division of this Chapter shall constitute a separate offense..

(f) Equitable Remedies. In addition to or in lieu of enforcement of this Chapter through a civil action, the Borough may enforce this Chapter through an action in equity brought in the Court of Common Pleas of Lehigh County. The Borough Solicitor shall have authority to commence the action in equity on behalf of the Borough without explicit authorization of Council in any situation where the Solicitor or the President of Council deems it advisable to act before the next regular Council meeting.

Article II — Specific Conditions Constituting Nuisances

§ 91-201 Specifically Identified Conditions Not Exclusive.

Without limiting the generality of § 91-101, the conditions set forth in this Article are, among other possible conditions, specifically declared to be public nuisances and violations of § 91-101

§ 91-202 Items Placed Near Streets.

It is a public nuisance to place or cause to be placed, thrown, or maintained in or near any highway or street any matter or thing that will decay or become offensive or render offensive any of the drains, streams, or watercourses within the Borough.

§ 91-203 Weeds.

It is a public nuisance to permit weeds and similar vegetation, not edible or planted for some useful purpose or ornamental purpose, to grow or remain upon the owner's premises, inclusive of sidewalk, curb or adjoining gutter.

§ 91-204 Certain Animals Near Dwelling Houses.

It is a public nuisance to keep cattle, horses, or hogs within the limits of the Borough within five hundred (500) feet of any dwelling house except that of the owner of the animals.

§ 91-205 Abandoned Vehicles on Private Property.

The retention or accumulation of abandoned vehicles on private property may be considered, along with other conditions, to constitute a nuisance within the scope of this Chapter.

Appendix

¶ 91-A Disposition of Ordinance 136.

<u>Ordinance 136</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ I	§ 80-1	§ 91-101
§ II (intro)	§ 80-2 (intro)	§ 91-201
§ II(a)	§ 80-2(A)	§ 91-202
§ II(b)	§ 80-2(B)	§ 91-203
§ II(c)	§ 80-2(C)	§ 91-204
§ II(d)	§ 80-2(D)	Superseded by Pennsylvania Vehicle Code. <i>See</i> § 91-204
§ II(e) (as added by Ord. 167)	§ 80-2(E)	§ 91-205
§ III	§ 80-3	§ 91-102

¶ 91-B Disposition of 1981 Code, Chapter 80.

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 80-1	§ 91-101
§ 80-2 (intro)	§ 91-201
§ 80-2(A)	§ 91-202
§ 80-2(B)	§ 91-203
§ 80-2(C)	§ 91-204
§ 80-2(D)	Superseded by Pennsylvania Vehicle Code. <i>See</i> § 91-204
§ 80-2(E)	§ 91-205
§ 80-3	§ 91-102

¶ 91-C Source Ordinances.

Ordinance 136	05-14-1969
Ordinance 167	03-04-1974
Ordinance 215	11-11-1981
Ordinance 415	10-29-2003
Ordinance 518	03-12-2014
Ordinance 526	01-28-2015