

CHAPTER 173: PROPERTY MAINTENANCE

[HISTORY: Adopted by the Borough Council of the Borough of Newport as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings — See Ch. 92.

Open burning — See Ch. 94.

Uniform construction codes — See Ch. 99.

Solid waste — See Ch. 208.

Article I. General Provisions

[Adopted 10-3-1972 by Ord. No. 179; amended in its entirety 4-9-1985 by Ord. No. 238 (Ch. 10, Part 1, of the 1985 Code)]

§ 173-1. Short title.

This article shall be known and cited as the “Borough of Newport Property Maintenance Ordinance.”

§ 173-2. Findings.

The people and the citizens of the Borough and their duly elected government body are aware that there are owners of property which have fallen into a state of disrepair and/or to become a detriment to the desirable character of the Borough through neglect or lack of routine, reasonable maintenance of buildings and grounds. The Borough Council believes that such practices promote a decrease in the values of surrounding properties and, if left unattended, could constitute a threat to the health and welfare of the occupants and of the populace in general. Accordingly, this article is passed to encourage and insure that all properties and structures situate in the Borough are kept at a reasonable level of maintenance in conformity with the provisions of this article.

§ 173-3. Authority.

This article, and the objectives leading to its enactment, are authorized by the following provisions of the Borough Code, to wit: 53 P.S. § 46202 (5, 10 and 11)

§ 173-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUILDING

A roofed structure, enclosed by one or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals.

COURT

An open and unoccupied space on a lot enclosed on at least three sides by the walls of a building.

GARBAGE

Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION

The presence of insects, rodents, vermin and/or other pests.

LOT

Plot, tracts, premises, or parcel of land, with or without improvements thereto.

OWNER

Any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto or who retains the exclusive control of such a lot and/or improvements thereto or who retains the exclusive control of such lot and/or improvement in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

REFUSE

All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

UNOCCUPIED HAZARD

Any building, or part thereof, or man-made structure, which remains unoccupied for a period of more than six months, with either doors, windows, or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six months.

YARD

Any open space on the same lot with a building and, for the most part unobstructed from the ground up.

§ 173-5. Application.

The provisions of this article shall supplement local laws, ordinances or regulations existing in the Borough or those of the Commonwealth of Pennsylvania. Where a provision of this article is found to be in conflict with any provision of a local law, ordinance, code or regulations or those of the Commonwealth of Pennsylvania, the provisions which is more restrictive or which establishes the higher standard shall prevail.

§ 173-6. Buildings and structures.

- A. No owner of any building or structure shall fail to take steps and perform such maintenance thereto, as may be required from time to time, to ensure the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties and to the general populace.
- B. No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.
- C. Owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard, shall, upon direction of the Borough Council, remove, or cause the removal of, the building and/or structure.

§ 173-7. Yards, open lots, parking areas.

No person shall permit:

- A. enclosures and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property;
- B. The development or accumulation of hazards, rodent harborage and/or infestation upon yards, courts, or lots;
- C. Objectionable materials to accumulate and to be blown about the surrounding neighborhood;
- D. Wells, cesspools, cisterns, sedimentation ponds, stormwater management impoundment ponds and/or ponds of a similar nature to remain open without adequate fencing or barricades to prevent access thereto by the general public;
- E. The accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any

portion thereof, to grow on their property and which constitute a safety hazard to pedestrian and/or vehicular traffic.

§ 173-7. Yards, open lots, parking areas. (Amended 7-7-15 by Ord. No. 360)

No person owning or occupying any property within the Borough shall not permit:

- A. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property;
- B. The development or accumulation of hazards, rodent harborage and/or infestation upon yards, courts, or lots;
- C. Objectionable materials to accumulate and to be blown about the surrounding neighborhood;
- D. Wells, cesspools, cisterns, sedimentation ponds, stormwater management impoundment ponds and/or ponds of a similar nature to remain open without adequate fencing or barricades to prevent access thereto by the general public;
- E. The accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any portion thereof, to grow on their property and which constitute a safety hazard to pedestrian and/or vehicular traffic.
- F. Any grass, weeds or any vegetation whatsoever not edible or planted for a useful or ornamental purpose, to grow or remain upon a premise so as to exceed a height of (6) six inches.

§ 173-8. Infestation, prevention and correction.

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.
- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
- C. Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

§ 173-9. Miscellaneous provisions.

No person shall permit:

- A. Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge;
- B. Roof gutters, drains, or any other system designed and constructed to transport stormwater, to be discharged into any sanitary sewage system and/or any part thereof;
- C. Any refrigerator, freezer and/or other similar storage chest to be discarded, abandoned or stored in any place or location which is accessible to the general public without first completely removing any and all locking devices and/or doors;
- D. Any electronics, all appliances, upholstered furniture, automotive parts to include tires and batteries, and used automotive fluids, cannot be stored in any place or location which is accessible to the public which includes yards, open lots, parking areas, porches and carports.[Added 1-8-2013 by Ord. No. 348]

§ 173-10. Responsibilities of occupants.

Any occupant of a premises shall be responsible for compliance with the provisions of this article with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof.

§ 173-11. Responsibilities of owners.

- A. Owner of premises shall comply with the provisions of this article as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
- B. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one or more violations of this article, said occupant shall be deemed responsible and taken to be the owner within the true intent and meaning of this article.

§ 173-12. Notice of violation. (Amended 7-7-15 by Ord. No. 360)

Upon failure to comply with any terms or conditions of this article, the owner and/or occupant shall be notified by the Borough Council or its authorized representative, by certified mail, or through personal service, of said violation or violations. Such notification shall be in writing and shall identify the premises and shall cite the specific violation or violations; shall direct the owner and/or occupant to correct the deficiency and/or deficiencies within a period of (10)

ten days from the receipt of such notice and shall inform the owner and/or occupant of the fines and penalties which would accrue for the failure to comply. The notice shall also advise that, in lieu of or in addition to fines and penalties, and subsequent to the (10) ten day period for voluntary compliance, the Borough may itself correct the deficiencies or contract for the correction thereof and assess the cost thereof as a lien against the premises and/or recover the expenses so incurred in a manner as prescribed by law. In the event the owner and/or occupant cannot be ascertained or is not able to be located, a notice, containing the above required information in summary form, shall be published once in each of (2) two 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 the terms and conditions herein established; detailed notice thereof shall be posted on the subject premises and at the Borough Building.

§ 173-13. Compliance.

[Amended 1-8-2013 by Ord. No. 348] The owner and/or occupant shall have 10 days from the receipt of a notice of violation or, alternatively, from the date of the second appearance of the published notice of violation, to correct any and all stipulated deficiencies. Extensions to the ten-day period in which deficiencies must be corrected may be granted by the Borough upon demonstration by the owner and/or occupant that such an extension thereto is warranted and justified. Failure to comply shall constitute a violation of this article. A conviction of an owner and/or occupant shall not ban further prosecutions for noncompliance with this article subsequent to such conviction.

§ 173-14. Violations and penalties.

[Amended 1-8-2013 by Ord. No. 348] Any person, firm or corporation who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$600, together with costs of prosecution, or to imprisonment for a term not to exceed 30 days. Each day a conviction in violation of this article exists beyond the thirty-day voluntary compliance period shall constitute a separate violation of this article.

§ 173-15. Owners severally responsible.

If the premises are owned by more than one owner, each owner shall severally be subject to prosecution for the violation of this article.

§ 173-16. Inspection.

The Borough Council may, or may cause, through an authorized representative of the Borough, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner, or his agent, to secure access thereof.

Article II. Used Tires

[Adopted 7-6-2010 by Ord. No. 341]

§ 173-17. Short title.

This article shall be known and cited as the “Borough of Newport Used Tire Ordinance.”

§ 173-18. Findings.

Recognizing the danger posed to the health, safety and welfare of the Borough of Newport and its citizens from the threat of fire, vermin, sickness or disease, accidents or injury, and nuisances involving accumulations of used tires, it is the purpose of this article to regulate the accumulation of such tires.

§ 173-19. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BOROUGH

The Borough of Newport, Perry County, Pennsylvania.

CODE ENFORCEMENT OFFICER

Any code enforcement officer duly appointed and employed by the Borough Council, Borough of Newport, Perry County, Pennsylvania.

COUNCIL

The Borough Council of Borough of Newport, Perry County, Pennsylvania.

FIRE CHIEF

The chief of the Borough of Newport Volunteer Fire Company.

OCCUPANT

The person or persons, jointly or severally, who has control over the property on which used tires are accumulated, whether as an owner, lessee or licensee.

OWNER

Any person or persons, jointly or severally, who, either by conveyance inheritance or otherwise, is vested with title to real property and/or improvements thereto, or is the holder of an option or contract to purchase property (whether or not such option or contract is subject to any conditions), a lessee, or who retains the exclusive control of such property and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc., or other person having a proprietary interest in the land.

PERSON

Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district, authority, or any legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

USED TIRES

A continuous solid or pneumatic rubber cushion intended to encircle a wheel that has endured use (i.e., any tire other than a new tire).

§ 173-20. Accumulation of used tires prohibited.

- A. No person shall allow, permit or have an accumulation of used tires on any property or in any structure within the Borough of Newport, which tends to create or creates a fire hazard or constitutes a danger to the health, safety or welfare of the public.
- B. Whenever the Code Enforcement Officer or Fire Chief determines that it reasonably appears there is an immediate danger to the life, health or safety of any person or property due to an accumulation of used tires on a property or in any structure, the Code Enforcement Officer shall declare such premises to be a public nuisance.

§ 173-21. Inspection of premises; notice to comply.

- A. The Code Enforcement Officer and Fire Chief are each hereby empowered to inspect private property on which used tires have been accumulated to determine if the same creates or constitutes a danger to the life, health or safety of any person or property. If such accumulation creates or constitutes a nuisance, or poses a danger to the health, safety or welfare of the public, the Code Enforcement Officer shall issue a written notice upon the owner and occupant of said premises or, if the owners' and/or occupants' whereabouts or identity be unknown, by posting a notice conspicuously upon the offending premises.
- B. The notice shall require the owner and occupant to remove, abate or otherwise rectify the condition as set forth in the notice within 14 days of mailing or posting of said notice.

§ 173-22. Authority to remedy noncompliance.

If the owner and/or occupant of property on which used tires are accumulated in violation of this article does not comply with the notice to abate the nuisance and remove the used tires

within the time limit prescribed, the Borough of Newport shall have the authority to cause the violation to be corrected and collect the cost of such corrections plus 10% of all costs incurred by the Borough. The owner and occupant of the property shall be billed upon completion of such corrective measures and any such bill shall be grounds for the imposition of a municipal lien upon the property, enforced and collected as provided by law. The Borough in such event and pursuant to its authority or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

§ 173-23. Hearing.

- A. Any person aggrieved by the decision of the Code Enforcement Officer may request and shall be granted a hearing before the Borough Council; provided such person files with the Council within 10 days after notice of the Code Enforcement Officer's decision, a written petition requesting such hearing and setting forth a brief and concise statement of the grounds therefore. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.
- B. After such hearing, the Borough of Newport shall sustain, modify or overrule the action of the Code Enforcement Officer.
- B. Appeal hearings shall be conducted pursuant to the Act of December 2, 1968, known as the "Local Agency Law." Editor's Note: See 2 Pa.C.S.A. § 105 et seq. Any subsequent appeal shall be to the Court of Common Pleas of Perry County, Pennsylvania.

§ 173-24. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs of prosecution, and in default of payment of such fine and costs, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this article continues shall constitute a separate and distinct offense. Attorney's fees, consultant, engineering and other costs incurred by the Borough as result of the enforcement of this article are recoverable as costs of prosecution if the Borough prevails as determined by the Court.

§ 173-25. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this article, or any remedy provided by law, shall not be deemed mutually exclusive; rather, they may be employed simultaneously or consecutively, at the option of the Borough Council and the Borough may invoke such other remedies available under this article, other applicable codes, ordinances and statutes.