

Chapter 212

NUISANCES

[HISTORY: Adopted by the Borough Council of the Borough of East Vandergrift 11-7-1983 by Ord. No. 7. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 108.

Brush, grass and weeds — See Ch. 118.

Property maintenance — See Ch. 230.

Streets and sidewalks — See Ch. 288.

Trees — See Ch. 315.

§ 212-1. Definitions; word usage.

A. As used in this chapter, the following terms shall have the meanings indicated:

JUNK — Any discarded material or article such as is not ordinarily disposed of as rubbish and refuse, and shall include, but not be limited to, scrap metal and scrapped motor vehicles, and shall not include any garbage or other organic waste, or any paper, rubbish rags or other flammable article or material.¹

JUNKED AUTOMOBILES AND OTHER VEHICLES — Any automobile, truck or other vehicle that does not have affixed current license plates or current inspection stickers.²

NUISANCE — Any use of property within the Borough of East Vandergrift, or any condition upon property within the Borough that, other than infrequently, causes or results in: i) annoyance or discomfort to persons beyond the boundaries of that property; ii) interference with the health and/or safety of persons beyond the boundaries of that property or of persons who might reasonably be expected to enter upon or be in that property; and/or iii) disturbance to or interference with the peaceful use of the property of others within the Borough, in any case taking into consideration the location of the use or condition and the nature and condition of the surrounding neighborhood. Specifically, the word "nuisance" shall include but shall not be limited to the following:³

- (1) Loud playing of radios, television sets, juke boxes, amplifiers and other sound devices so as to be heard beyond the premises from which the sound emanates;
- (2) Operation of gasoline-powered yard equipment between the hours of 9:00 p.m. and 7:00 a.m.;
- (3) Operating model airplanes equipped with gasoline engines on any public street or on any playground;

1. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) Keeping or harboring any dog or other animal which, by creation of odor or by frequent howling or barking or other noise, particularly by barking after 10:00 p.m. or before 6:00 a.m., annoys or disturbs the neighborhood or a number of persons;
- (5) Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:
 - (a) Open wells or cisterns.
 - (b) Open excavations.
 - (c) Unfinished buildings, foundations or other structures.
 - (d) Dangerous placement of materials or equipment.
 - (e) Lakes, ponds or swimming pools not properly safeguarded.
 - (f) Stagnant water in which mosquitoes, flies or insects multiply;
- (6) Carrying on of any building or road construction, excavation, or trenching, or the operation of heavy equipment or trucks in connection therewith at any time on Sunday or a legal holiday, or on any other day of the year at any time between 7:00 p.m. and 7:00 a.m., without a special permit issued by the Borough Secretary. That special permit shall be issued only if it is shown that the construction work must proceed as a matter of emergency or that it can be carried on in such a manner or in such a place that the public or residents will not be annoyed or disturbed by that construction work;
- (7) Carrying on construction work in such a manner that dirt is carried by wind onto adjacent properties or that mud is tracked or drained into streets adjacent to the project;
- (8) Carrying on any mechanical work in the nature of that done in a machine shop, auto body or repair shop or similar establishment after the hour of 9:00 p.m. or before the hour of 7:00 a.m.;
- (9) Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the material before 5:00 p.m. of the day on which the material was deposited;
- (10) Using any property or operating any business or other activity so as to permit or cause smoke, soot, cinders, fly ash, dust, mud, dirt, acid, noxious or offensive fumes, gases or odors to be carried off the premises, or to cause any water to become polluted by sewage, industrial wastes, acid or other substance, or to cause a glare from lights, or noise of such character as to cause annoyance to residents or interference with normal use of adjacent properties;
- (11) Creation or maintenance of "attractive nuisances," which is the leaving of a dangerous instrumentality which by its character is dangerous and attractive to children and in a place frequented by children;
- (12) Dumping, storage or accumulation of junk or abandoned or junked automobiles.

PERSON — As used in this chapter, shall mean and include any natural person, partnership, association, firm or corporation.

B. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

§ 212-2. Unlawful to create or maintain nuisances

It shall be unlawful and a violation of this chapter for any person to create, continue, cause, maintain or permit any nuisance at any place within the Borough of East Vandergrift.

§ 212-3. Removal or abatement of nuisances.

Any person who creates, continues, causes, maintains or permits to exist any nuisance at any place within the Borough of East Vandergrift shall, within 10 days after notice from the Borough Council to do so, remove or abate that nuisance. If that person fails, neglects or refuses to abate the nuisance within the time limit, Council shall have authority, in person or by its agents and/or employees, to remove or abate the nuisance, and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, Council shall collect the cost and expense of the abatement or removal from the person who created, continued, caused or maintained the nuisance and/or permitted it to exist, that person having failed, neglected or refused to remove or abate the nuisance, with an additional amount of 10%, in the manner provided for the collection of municipal claims, or by an action in assumpsit. Provided: the cost and expense may be in addition to any penalty imposed under § 212-4 of this chapter.

§ 212-4. Violations and penalties. ⁴

Any person who violates any provision of this chapter shall, upon conviction in a summary proceeding under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the county correctional facility for a period not exceeding 30 days. Each day that such violation exists shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. In addition to or in lieu of enforcement under this section, the Borough may enforce this chapter in equity in the Court of Common Pleas of Westmoreland County.

§ 212-5. Exceptions.

This chapter shall not be construed to be the sole means for abatement of nuisances within the Borough of East Vandergrift and nothing shall preclude any person from proceeding individually or with other injured persons to effect the abatement of a private nuisance. Furthermore, in the exercise of the powers conferred in this chapter, the Borough may institute proceedings in equity.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).