

ORDINANCE NO. 146 OF 1993
Borough of Sugarcreek
Venango County, Pennsylvania

A ZONING ORDINANCE DEFINING AND REGULATING PRIVATE PROPERTY MAINTENANCE; PROHIBITING CERTAIN ACTIVITIES INVOLVING BUILDINGS, STRUCTURES, COURTS, YARDS, LOTS, AND PARKING AREAS; REQUIRING PREVENTION AND CORRECTION OF VERMIN INFESTATION; DETERMINING THE RESPONSIBILITIES OF OWNERS AND OCCUPANTS; AUTHORIZING INSPECTIONS, ENFORCEMENT NOTICES AND APPEAL HEARINGS; AND PRESCRIBING REMEDIES AND PENALTIES FOR VIOLATION.

The Borough Council of the Borough of Sugarcreek hereby Ordains:

Section 1: Short Title

- (1) This ordinance shall be known and cited as the "Borough of Sugarcreek Property Maintenance Ordinance."

Section 2: Preface and Legislative Findings

- (1) The people and the citizens of the Borough of Sugarcreek, and their duly elected government body are aware that there are owners and occupants of property who permit their properties and structures to fall into a state of disrepair and/or to become a detriment to the desirable character of the Borough of Sugarcreek through neglect or lack of routine maintenance of buildings and grounds. The 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, safety, morals and general welfare of the occupants and the community. Accordingly, this ordinance is passed to encourage and insure that all properties and structures situated in the Borough of Sugarcreek are kept at a reasonable level of maintenance in conformity with the provisions of this ordinance.

Section 3: Authority

- (1) This Ordinance, and the objectives leading to its enactment, are authorized by the Pennsylvania Municipalities Planning Code, as reenacted and amended, and codified at 53 P.S. section 10101 et seq. See particularly, 53 P.S. sections 10601 and 10604 (1).

Section 4: Definitions

- (1) The following words and phrases when used in this Ordinance shall have the meanings given to them in this Section unless the context clearly indicates otherwise. Moreover, those words and phrases not specifically defined herein shall have a common meaning as expressed in Merriam Websters Collegiate Dictionary Tenth Addition 1993 in the Municipal Building of the Borough of Sugarcreek.
- (a) BUILDING: any roofed structure, enclosed by one or more walls, designed, built or intended for the support, protection, shelter, housing, storage or enclosure of persons, animals, goods, materials, equipment or other property.
- (b) COURT: an open and unoccupied space on a lot enclosed on at least three (3) sides by the walls of a building.
- (c) GARBAGE: putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (d) HAZARD: any condition or circumstance posing a substantial present or potential injury to human health or to the environment when improperly treated, stored, attended to, disposed of or otherwise managed.
- (e) HAZARDOUS MATERIAL: any element, substance, compound or mixture defined as a hazardous waste, hazardous substance or contaminant pursuant to the Solid Waste Management Act of Pennsylvania, codified at 35 P.S. section 6018.101 et seq and/or the Hazardous Sites Cleanup Act of Pennsylvania, codified at 35 P.S. section 6020.101 et seq.
- (f) INFESTATION: the presence of insects, rodents, vermin and/or other pests.

- (g) LOT: any designated parcel, tract or area of land, with or without improvements thereto, established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.
- (h) NUISANCE: any annoying, irritating, bothersome, unpleasant, obnoxious, unreasonable, unwarranted and/or unlawful use, activity, practice or condition which materially and/or substantially interferes with and/or injures the rights of others and/or another's reasonable use and enjoyment of his property. The term "nuisance" shall include, by way of example and not by way of limitation, odors, smoke, vibrations, random and/or periodic noise(s) and all prohibited acts or omissions and requirements set forth in Sections 6, 7, 8 and 9 of this Ordinance.
- (i) OBJECTIONABLE MATERIALS: any undesirable, unwanted, unwelcome, unacceptable, offensive and/or ill-favored materials such as, by way of example and not by way of limitation, refuse, paper, food scraps, food containers, carpet scraps, wrappings, string or rope, building materials, cat litter, and/or sawdust.
- (j) OWNER: any person or persons, jointly or severally, firm, corporation or other entity who, either by conveyance or inheritance or otherwise, is vested with the legal title to a lot and/or improvements thereto, or who holds an option or contract to purchase (whether or not such option or contract is subject to any condition) a lot and/or improvements thereto, or who retains the exclusive control of such a lot and/or improvements thereto.
- (k) REFUSE: all putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.
- (l) STRUCTURE: any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.
- (m) UNOCCUPIED HAZARD: any building, or part thereof, or structure, which remains unoccupied for a period of more than six (6) months, with either doors, windows or other openings broken, removed, boarded or sealed up, or any building or structure under construction upon which little or no construction work has been performed for a period of more than six (6) months. Any "unoccupied hazard" also shall constitute and be deemed to be health and safety hazard; however, it is not the intention of this ordinance to limit health and safety hazards solely to an "unoccupied hazard".
- (n) YARD: any open space on the same lot with a building and, for the most part unobstructed from the ground up.

Section 5: Application

- (1) The provisions of this ordinance shall supplement local laws, ordinances or regulations existing the Borough of Sugarcreek or those of the Commonwealth of Pennsylvania. Where a provision of this Ordinance 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 are more restrictive or which establish the higher standard shall prevail.

Section 6: Prohibited Acts or Omissions: Buildings and Structure; Nuisances

- (1) No owner and/or occupant(s) 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 that the property is safe, sound, sanitary, secure, and free from hazards, and that it does not present a health and/or safety hazard to surrounding properties and to the general public. The violation of this provision is hereby declared to be a nuisance.
- (2) No owner and/or occupant(s) of any unoccupied building or structure shall fail to take such steps as may be required to insure that the same are securely closed so as to prohibit and deter ingress thereto, and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to lack of maintenance or due to neglect. The violation of this provision is hereby declared a nuisance.
- (3) owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified or classifiable as unoccupied hazards, shall upon direction of the Borough of Sugarcreek or its authorized representative, remove, or cause the removal of, the building and/or structure. The violation of this provision is hereby declared to be a nuisance.

Section 7: Prohibited Acts or Omissions: Courts, Lots, Yards and Parking Areas; Nuisances

- (1) No person shall permit any fence or other structure to be constructed and/or maintained on any court, lot, yard or parking area so as to present a safety and/or health hazard to persons and/or property. The violation of this provision is hereby declared to be a nuisance.
- (2) No person shall permit the development or accumulation of any garbage, hazard, hazardous material, rodent harborage and/or infestation, objectionable material or refuse upon any court, lot, yard or parking area, except to the extent that the same may be temporarily placed thereon for immediate pick-up and disposal by a person or entity properly licensed and authorized to do so. The violation of this provision is hereby declared to be a nuisance.
- (3) No person shall permit garbage, objectionable materials or refuse to accumulate or be blow about the surrounding neighborhood. The violation of this provision is hereby declared to be a nuisance.
- (4) No person shall permit wells, cesspools, cisterns, sedimentation ponds, storm water 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. The violation of this provision is hereby declared to be a nuisance.
- (5) No person shall permit the accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall he permit any trees, plants and/or shrubbery, or any portion thereof, to grow on his property which constitutes a safety hazard to pedestrian and/or vehicular traffic. The violation of this provision is hereby declared to be a nuisance.

Section 8: Requirements: Infestation, Prevention and Correction

- (1) All grounds, buildings and structures shall be maintained free from insect, vermin and rodent harborage and infestation. The violation of this provision is hereby declared to be a nuisance.
- (2) All grounds, buildings and structures shall be maintained so as to deter and prevent all prohibited acts or omissions set forth hereinabove in sections 6, 7 and 9. The violation of this provision is hereby declared to be a nuisance.
- (3) Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage, hazards, hazardous materials, objectionable materials, and refuse. Methods employed for the said collection, storage, handling and disposal shall conform to generally accepted and lawful practices. The violation of this provision is hereby declared to be a nuisance.
- (4) Where there exists rodents and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problems(s), to include screening, extermination, and/or garbage and refuse control. Methods employed for extermination shall conform to generally accepted and lawful practices. The violation of this provision is hereby declared to be a nuisance.

Section 9: Miscellaneous Provisions; Nuisances

- (1) No person shall permit 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. The violation of this provision is hereby declared to be a nuisance.
- (2) No person shall permit roof gutters, drains (except for properly installed, connected and used cellar floor drains), or any other system designed and constructed to transport storm water, to be discharged into any sanitary sewage system and/or any part thereof. The violation of this provision is hereby declared to be a nuisance.
- (3) No person shall permit 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, lids and/or doors and without first having all Freon and other refrigerants removed therefrom by properly licensed personnel. The violation of this provision is hereby declared to be a nuisance.

- (4) No person shall permit any television picture tube or television set containing any picture tube to be discarded, abandoned or stored in any place or location which is accessible to the general public without first having the said picture tube neutralized to eliminate the danger of implosion. The violation of this provision is hereby declared to be a nuisance.

Section 10: Responsibilities of Occupants

- (1) Each occupant of premises regulated hereby shall be responsible for compliance with the provisions of this Ordinance 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 to the extent he has agreed to assume that duty in the contract/agreement under which he exercises occupancy and/or control thereof.

Section 11: Responsibilities of Owners

- (1) Each owner of premises regulated hereby shall comply with the provisions of this Ordinance regardless of any agreements between owners and occupants as to which party shall assume such responsibility.
- (2) Notwithstanding the absence of a contractual duty to maintain, in instances where an occupant is responsible, or shared responsibility with an owner, for the existence of one (1) or more violations of this Ordinance, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of this Ordinance.
- (3) In instances where an occupant has no responsibility for the existence of one (1) or more violations of this Ordinance, and has not assumed any duty of maintenance in a contract/agreement with the owner, the owner shall alone be accountable for any violation(s) of this Ordinance.

Section 12: Inspection

- (1) The appointed Zoning Officer of the Borough of Sugarcreek may enter or may cause, through an authorized representative of the Borough of Sugarcreek Police Department, or a Constable, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough of Sugarcreek for ascertaining the existence of violations of this Ordinance. 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, either prior arrangements must be made with the owner, or his agent, to secure access thereto, or a warrant must be obtained pursuant to the Pennsylvania Rules of Criminal Procedure, codified at 42 Pa. C.S.A.

Section 13: Civil Enforcement Notice

- (1) If it appears to the appointed Zoning Officer of the Borough of Sugarcreek that any violation of this Ordinance has occurred, then the said Zoning Officer shall initiate and pursue enforcement proceedings by the issuance and service of an appropriate Enforcement Notice pursuant to the requirements and procedures set forth in the Pennsylvania Municipalities Planning Code, at 53 P.S. section 10616.1 et seq.

Section 14: Appeal to Zoning Hearing Board

- (1) The person(s) against whom an enforcement proceeding is instituted as set forth hereinabove in Section 13, has the right to appeal the determination that a violation has occurred, which appeal shall comply with the following procedure:
 - (a) The appeal shall be filed with the Zoning Hearing Board of the Borough of Sugarcreek on or before the thirtieth (30th) day following the date of the applicable Enforcement Notice.
 - (b) The appeal shall be in writing
 - (c) The appeal shall request a hearing before the Zoning Hearing Board of the Borough of Sugarcreek.
 - (d) The appeal shall include any documentation as to the appellant's ownership or interest in the parcel on which the violation has occurred.

- (e) The appeal shall include a detailed analysis of the appellant's position relative to the alleged violations, which analysis shall include as a minimum (i) a response or answer to the specific violations alleged, (ii) a detailed statement of each defense that the appellant has to each specific violation, and (iii) all facts and documentation which the appellant intends to introduce at the requested hearing before the Zoning Hearing Board of the Borough of Sugarcreek.
- (2) As soon as practicable after receipt of the said appeal, the Zoning Hearing Board of the Borough of Sugarcreek shall give public notice and conduct a public hearing on the matter, and thereafter it shall issue a written decision thereon, all in accord with the provisions of the Pennsylvania Municipalities Planning Code.

Section 15: Civil Proceedings

- (1) In addition to any other remedies provided by law, the Borough of Sugarcreek, or its authorized representative, may institute any appropriate action or proceeding to prevent, restrain, correct or abate any act, omission, condition or circumstance constituting a violation of this Ordinance, which may include but may not be limited to the following:
 - (a) The Borough of Sugarcreek, or its authorized representative, may take such measures as may be necessary to correct the violating condition(s), and thereafter collect by civil action against the owner and/or occupant(s) the costs of such corrections, plus a sum by way of fine or forfeiture to equal ten percent (10%) of such cost, which sum may not exceed \$1,000.00, plus any other sums permitted by law. For the purposes of this paragraph the Borough of Sugarcreek, or its authorized agent, pursuant to the Borough's statutory or otherwise authorized police powers, shall have the right, privilege, and/or power to enter upon the offending premises and make the said corrections.
 - (b) Bring an action in accordance with the remedies set forth in the Pennsylvania Municipalities Planning Code at 53 P.S. section 10617.2, which provides, in pertinent part, as follows: That any person who has violated or permitted the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough of Sugarcreek, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Borough of Sugarcreek as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough of Sugarcreek may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation shall be paid over to the Borough of Sugarcreek.
 - (c) Bring a civil action in equity against the owner and/or occupant(s) praying for an order preventing, restraining, correcting, and/or abating the condition, structure and/or improvement that constitutes a violation of this Ordinance.

Section 16: Criminal Proceedings

- (1) In addition to any other remedies provided by law, any person who acts in nonconformity with any provision of this Ordinance and/or otherwise violates or fails to meet the requirements of this Ordinance may be prosecuted in a criminal proceeding and shall, upon conviction thereof, be guilty of a summary offense and sentenced according to Chapter 11 of the Crimes Code of the Commonwealth of Pennsylvania Authorized Disposition of Offenders. Each day that a violation continues may constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues may constitute a separate violation.

Section 17: Owners Severally Responsible

- (1) If the premises regulated hereby are owned by more than one owner, then in that event each owner shall severally be

subject to prosecution for the violation of this Ordinance.

Section 18: Remedies Not Mutually Exclusive

- (1) Sections, 13, 15, and 16 hereof, the enforcement of this Ordinance, or any other remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Borough of Sugarcreek of its authorized representative.

Section 19: Severability

- (1) If any provision, or part thereof, of this Ordinance or the application thereof to any person or circumstance is held invalid, then in that events the invalidity shall not affect any other provision, or part thereof, of this Ordinance or the application of this Ordinance which can be given effect without the invalid provision, or part thereof, or its application and, to this end, the provisions of this Ordinance are intended to be severable.

Section 20: Repealer

- (1) All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed to the extent of the inconsistency. The following ordinances or parts thereof are specifically repealed: The Borough of Sugarcreek Property Maintenance Ordinance, Ordinance No. 90, June 17, 1981.

Section 21: Effective Date

- (1) This Ordinance shall become official and effective five (5) days from the day of final passage by the Borough Council of the Borough of Sugarcreek.

ORDAINED AND ENACTED AS THE BOROUGH OF SUGARCREEK PROPERTY MAINTENANCE ORDINANCE ON THIS 15TH DAY OF DECEMBER, 1993 BY THE BOROUGH COUNCIL OF THE BOROUGH OF SUGARCREEK, VENANGO COUNTY, PENNSYLVANIA