

ORDINANCE NO. 659

AN ORDINANCE REGULATING VARIOUS CONDUCT AND ACTIVITIES WHICH ARE HEREIN CLASSIFIED AS NUISANCES AND TO PROVIDE PENALTIES FOR THE VIOLATION OF SUCH ORDINANCE IN THE BOROUGH OF MONT ALTO, FRANKLIN COUNTY, PENNSYLVANIA.

BE IT ORDAINED OR ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MONT ALTO, FRANKLIN COUNTY, PENNSYLVANIA, THAT THIS ORDINANCE SHALL BE KNOWN AND MAY BE CITED AS THE NUISANCE ORDINANCE.

ARTICLE I. PURPOSE AND INTENT. - That to protect the people against nuisance of and incident to the conduct, behavior and activities herein defined with the resulting detriment and danger to the public health safety and public interest, convenience and necessity requires the regulation thereof and to that end of purposes of this ordinance are specifically declared to be as follows:

SECTION 1: To protect the public against the unlawful activities, behavior and conduct herein defined which constitute a nuisance.

SECTION 2: To protect the local residents use and enjoyment of their property against trespassing by the activities, conduct and behavior classified as nuisances.

SECTION- 3: To protect the people against the health and safety menace and the expense incident to the activities, behavior and conduct herein classified as nuisances.

SECTION 4: To preserve to the people their constitutional right, to preserve their ordinary rules of decency, good morals and public order by regulating the conduct herein described as nuisances.

ARTICLE II. NUISANCES. It is hereby declared to be a common nuisance and in said Borough abatable and punishable as such:

A. Signs. For any person to erect signs projecting across walks or in places dangerous to life and limb.

B. Cesspools. For any person to permit and maintain open vaults, drains, failed cesspools and failed septic systems prejudicial to public health.

C. Lights. No lights, incandescent, strobe, sodium or mercury vapor, shall spot, flood, or otherwise shine so as to impede the safe movement of traffic upon the streets, highways or traffic ways within the Borough of Mont Alto. No lights, incandescent, strobe, sodium or mercury vapor, shall spot, flood, or otherwise shine upon the private property of another so as to annoy, disturb or otherwise prevent another person from enjoying the privacy of their own property. No residence, business, industry or other person shall illuminate any sign adjacent to

any street, highway or traffic way within the Borough of Mont Alto, with flashing, rotating, sequential, strobe, or otherwise moving lights, so as to interfere with the movement of traffic upon said streets, highways or traffic ways, within the Borough of Mont Alto. No residence, business, industry or other person shall utilize any form or configuration of lights so as to resemble a traffic signal, railroad signal, or any other form of simulated signal, visible to the motoring public upon any street, highway or traffic way within the Borough of Mont Alto.

D. For any person to engage in the business of manufacture or sale of any explicitly pornographic, obnoxious or obscene material or to provide entertainment which is considered offensive in nature within the Borough.

E. Fires. For any person to start fires endangering the lives and property of the people of the borough. Permitted fires and burning are further described in Ordinance No. 318, the Borough's Burning Ordinance, as amended.

F. Obstructing streets, etc. For any person to permit any mud, dirt, coal, wood, brick, stone, gravel, clay, sand, rubbish or any other matter to remain upon the streets or in the gutter in front of his premises more than twenty-four (24) hours after it has been deposited there except by special permission of the Borough Council.

G. Depositing in streets, streams, etc. For any person to throw, spread or deposit on any of the streets, roads, lanes, alleys, courts or any watercourse or gutter within the Borough limits, and permit it to remain there, any animal carcass, fish, shellfish, ashes, paper, glass, tires, cans, rubbish or offal of any kind or any other refuse or offensive matter whatsoever.

H. Nauseous draining, etc. For any person to run foul or nauseous liquids, washings or drainings from any manufacturing establishments, stores, stables, private residences or shops into any of the gutters or along any of the sidewalks, streets, roads, lanes, alleys or courts of the Borough, or to keep, collect or use any garbage or filth or any stale, putrid, stinking fat, grease or other matter in or near any establishment or residence within the Borough limits-

I. Unreasonable Noise. In residential districts or if the abutting property is used for residential purposes, it shall be considered an unreasonable noise and a public nuisance if, between the hours 10:00 p.m. of one day and 6:00 a.m. the following day, regardless of the sound level which is emitted, for any person to play or permit the operation of the playing of any radio, television, drum, musical instrument, music player, sound amplifier, phonograph or similar device which produces, reproduces or amplifies sound in such a manner as to be plainly audible across a property line or from within another dwelling unit; to rebuild, test or otherwise work on any motorcycle, motor vehicle, motorboat or aircraft in such a manner as to be plainly audible across a property line; to yell, shout, whistle, sing or otherwise create noise across property lines that disturbs the quiet, comfort or repose of persons in any dwelling, hotel, or other type of residence.

The following are exempted from the provisions of this chapter:

1. Amplified and nonamplified activities approved by the Borough Council or its designee, which may include but not be limited to athletic events, concerts, block parties, church carnivals, or other publicly or privately sponsored events.

2. Emergency work: sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

3. Municipal and utility services: sounds resulting from the repair/management or replacement of any municipal or utility installation in or about the public right-of-way.

4. Warning devices: sounds made by warning devices operating continuously for three minutes or less, except that, in the event of an actual emergency, the time limit shall not apply.

5. Unusual/extreme weather conditions. Where unusual or extreme weather conditions, such as heat, cold, pollen advisories, rain, snow, or other condition that would affect the health and safety of persons working therein, restrict the ability of persons to work between the hours of 6:00 a.m. to 10:00 p.m., upon application to and permission from the Borough Council or its designee, such persons may engage in activities between 10:00 p.m. and 6:00 a.m. that may cause sounds otherwise prohibited.

J. Posting advertisements. For any person to post, paste or fasten any printed, painted or written signs, show bill, placard, circular or advertisement of any description whatsoever upon any tree, telegraph, telephone or electric-light pole within the Borough limits unless authorized by the Borough Council.

K. Glass, etc., on streets, etc. For any person to place, throw or put on any street, road, lane or alley of the Borough any tacks, nails, sharp pieces of iron, glass bottles, briars, thorns or other dangerous and similar substances which may injure an animal or puncture a rubber tire.

L. Odor. For any person to permit or cause the emission of any offensive or foul odor, scent, effluvium, emanation or fume within the Borough limits, except as normal and customary in farming activities.

M. Snowballing, etc. For any person to throw, hurl or cast any metal, stone, snowball, bullet or other missile at any person or animal passing along or standing at any of the streets, roads, lanes, alleys or sidewalks of the Borough.

N. Dogs and animals, etc. For any person owning, keeping, or permitting any dog, bitch or animal on or about his premises to disturb the peace and quiet of the night by barking, howling, crying or otherwise making a noise to the annoyance of the neighborhood which can be heard a distance of 150 feet from that person's property line.

1. Harboring – it shall be unlawful for any person knowing to keep or harbor any dog which habitually barks, howls or yelps or any cat which habitually cries or howls to the great discomfort of the peace and quite of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

2. Dogs Running at Large – it shall be unlawful for any person owning or possessing any dog to permit the same to run at large. “Running at large” shall be defined to be the presence of a dog at any place except upon the premises of the owner, or upon the premises of another with the consent of the owner of such premises. A dog

shall not be considered to be running at large if it is on a leash or under control of a person physically able to control it.

3. Keeping of Vicious Animals –

(a) It shall be unlawful for any person to keep or permit to be kept on his premises any vicious animal as a pet or for display or for exhibition purposes, whether gratuitously or for a fee.

(b) It shall be unlawful for any person to harbor or keep a vicious animal within the Borough. Any animal which is found off the premises of its owner may be seized by any police officer or humane officer; provided however, that this section shall not apply to animals under the control of a law enforcement or military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence or other adequate means, from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.

(c) “Vicious animal” shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that a person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

(d) Provisions of this ordinance relating to dogs which habitually bark, howl or yelp shall not apply to a “seeing eye dog” which is used to assist a person who is identified as legally blind.

O. Obstructing streets. For anyone placing a vehicle or other obstruction on or along any street of the Borough so as to interfere with vehicular or pedestrian traffic, unless it should become necessary to drive or place the vehicle in such position to load or unload merchandise or furniture, and then such vehicle shall only be permitted to remain for such lengths of time as is necessary to load or unload the same.

P. No person or persons shall blast rock on or near any public street or alley within the borough without first having obtained permission from Borough Council, and after having obtained permission, to blast under conditions and restrictions as set forth in the written consent of the Borough Council.

Q. No person shall permit any animals including any dogs, cats, cattle, horse, mule, sheep, goat, geese, ducks or swine to roam or be at large upon the streets, lanes or alleys in any of the inhabited parts of the Borough.

R. No person shall own, occupy or keep ground or other premises in such a condition to be offensive and a nuisance to the neighborhood, or to create a health or safety risk to the children and citizens of the Borough.

S. Storage or accumulation of junk, garbage or other similar material. No junk, garbage or other similar material shall be kept or stored on any premises or property within the Borough unless the keeping or storage of same is specifically authorized the Borough Council within the standards and regulations provided for by Pennsylvania law.

T. Junked Motor Vehicles. For any person to own or have stored upon their property any motor vehicle which is no longer in actual use for transportation or which is wholly unfit to be operated or has been discarded or otherwise abandoned. Failure of a motor vehicle to display a current valid registration plate and certificate of inspection is required by the vehicle code of Pennsylvania should constitute prima facie of proof that such vehicle is no longer in actual use for transportation purposes.

U. Nuisances, generally. Any person committing or maintaining a nuisance as defined in and prohibited by Chapter 65 of Title 18 of the Pennsylvania Consolidated Statutes shall be punishable as provided therein.

ARTICLE III. ILLEGALITY. Nuisances as defined herein are deemed illegal.

ARTICLE IV. REMOVAL OR ABATEMENT OF NUISANCE.

A. Abatement of nuisance by owners. The owner, owners, tenants, lessees and/or occupants of any lot within the Borough upon which a nuisance is found to exist and also the owner, owners and/or lessees of said personalty involved in such storage (all of whom are hereafter referred to as "owners") shall jointly and severally abate said nuisance by the prompt removal of said nuisance.

B. Abatement of nuisance by Borough. Whenever said owner(s) shall fail to abate said nuisance, the Borough shall take such action as is necessary to abate said nuisance without liability for damage to the property. The actual costs of abating said nuisance, including actual labor charges, equipment rental charges, postage and 25% of the costs for administrative overhead, plus 50% of the total, shall be collected from the owner of the premises either by an action in assumpsit or by the filing of a municipal claim or lien against the said real property. In addition to the above the Borough may, by an action in equity, compel the owner to comply with this chapter or take such other relief as a court may order.

ARTICLE V. ENFORCEMENT AND COMPLIANCE.

A. Whenever a condition constituting a nuisance is permitted or maintained upon premises situate in the Borough, the Borough Code Enforcement Officer, the Mayor or such other person or entity as may be designated by Borough Council pursuant to Subsection H infra, shall cause written notice to be served upon the owner in one of the following ways:

1. By personal delivery of the notice to the owner, tenant or lessee of the premises.
2. By leaving the notice with an adult upon the premises.
3. By attaching a copy of the notice to the door at the entrance of the premises in violation.
4. By mailing, by certified mail, a notice to the last known address of owner.

B. Such notice shall set forth in what respects such conditions constitute a nuisance and whether removal is necessary and required by the Borough or whether the situation can be corrected by repairs, alterations or by boarding or fencing or in some other manner confining and limiting the nuisance.

C. Such notice shall require the owner(s) to commence action, in accordance with the terms thereof, within seven days of the date of the notice, and thereafter to complete the work necessary to comply fully with the terms of the notice as soon as is reasonable, but not later than 60 days from the date of said notice, provided that the owner(s) has requested such an extension within the original term for compliance.

D. The expense of said compliance shall be at the expense of the owner; provided, however, that if a violation requires immediate correction, such notice shall require the owner to immediately comply with the terms thereof.

E. Notice required under subsection A hereof shall be given one time during a calendar year.

F. Each day shall constitute a separate violation of this chapter.

G. Whenever a condition allegedly constituting a dangerous building shall remain unabated following notice by the Borough in accordance with Article IV, then the Borough shall institute proceedings to have the building, structure or premises declared a dangerous building and the nuisance abated.

H. If the Borough Code Enforcement Officer, Mayor or his designee determines that any person, partnership, association or corporation is or has allowed a nuisance, as defined under regarding junk, trash or debris and garbage containment and collection, to occur, the Code Enforcement Officer, Mayor or designee shall cause written notice as set forth in subsection A to be sent to the violator to voluntarily abate and remove the nuisance within 24 hours thereof. If the violator has not abated or removed the nuisance within 24 hours after receipt of said written notice, the Code Enforcement Officer, Mayor or designee may initiate legal proceedings against such violator in the office of the appropriate District Justice.

ARTICLE VI. VIOLATIONS AND PENALTIES. For any violation of any provision of this ordinance by permitting, creating, maintaining, or being guilty of any of the nuisances herein specified and upon failure to abate such after notice to do so, be guilty of a summary offense and upon conviction thereof be liable to pay a fine not less than \$300.00 and not more than \$300.00, unless a fine is otherwise provided for by Pennsylvania Law or other Borough of Mont Alto ordinance.

ARTICLE VII. SCOPE: This Ordinance is a supplement to existing ordinances regulating behavior that may be classified as a nuisance and establishes additional conduct that constitutes a nuisance. This ordinance does not repeal or amend any prior enacted ordinances to the extent of limiting the enforcement of such ordinances.

ENACTED this 3rd day of April, 2017, by the Borough Council of the Borough of Mont Alto, Franklin County, Pennsylvania.

THIS ordinance shall become effective five (5) days after enactment.

BOROUGH OF MONT ALTO

ATTEST:

Patricia A. Kozl
Secretary

[Signature]
President of the Town Council

Approved this 3rd day of April

, 2017.

[Signature]
Mayor