

AN ORDINANCE DEFINING STAGNANT WATER POOLS, DECLARING STAGNANT WATER POOLS TO BE A PUBLIC NUISANCE; DECLARING AN OFFENSE; ESTABLISHING PROCEDURES TO ABATE THE NUISANCE; PROVIDING FOR NOTICE; PROVIDING FOR A HEARING; PROVIDING FOR SEVERANCE CLAUSE; PRESCRIBING FEES; PROVIDING A REPEALING CLAUSE; PRESCRIBING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Council of the Borough as follows:

SECTION 1. Definitions.

As used in this Ordinance, certain terms are defined as follows:

Borough – Borough of _____

Stagnant Water Pool – Stagnant water in pools in which mosquitos, flies or other insects may multiply, including, but not limited to, open containers, sewage, lagoons, ditches, roof gutters, wheelbarrows, bird bathes, ornamental pools, swimming pools, vegetation weeds, and grass in excess of eight inches (8”) in height (except as may be otherwise provided in Wetlands and Environmental Ordinances and Statues).

Premises – A lot, plot or parcel of land including any structures thereon.

Structure – That which is built or constructed or a portion thereof.

Titled Owner – Any person, firm, partnership or corporation having legal title or equitable interest in a structure and/or premises as recorded in the official records of the state, county or municipality; or guardian of the estate of any such person, or the executor, or administrator, of the estate of such person if in possession of real property as a fiduciary or heir.

SECTION 2. Stagnant Water Pool Declared to be Public Nuisance.

Any stagnant water pool:

1. is detrimental to the safety and welfare of the public;
2. creates a public health risk/hazard in light of the West Nile Virus problem
3. shall be deemed a public nuisance constituting a violation of this Ordinance.

SECTION 3.

It shall be unlawful for any titled owner to permit or maintain a stagnant water pool upon any premises or structure as defined herein in the Borough and upon conviction for a violation thereof shall be subject to the penalties provided under this Ordinance.

SECTION 4. Enforcement

The Borough Code Enforcement Officer shall enforce this Ordinance.

SECTION 5. Compliance Notice. Appeal

1. Whenever a violation of this ordinance is found or believed to exist, the enforcement official shall give written notice to the titled owner personally, or by mail addressed to him/her last known address, or by posting said written notice thereof upon the premises involved.
2. Required notice shall identify the premises, specifically state the reason why notice is being issued with relevant section(s) of the Ordinance, include a correction order allowing a reasonable time to achieve compliance with this Ordinance, and set forth that any appeal must be in writing to the Borough Secretary, within the time set forth for compliance. Failure to timely request an appeal in writing will be deemed a waiver of the Appeal.

SECTION 6. Work by Borough, Costs to be filed as a Lien.

Upon failure, neglect or refusal of any titled owner to comply with any and all applicable sections of this Ordinance, the Enforcement Official is authorized to prepare appropriate work orders for performance of work by authorized Borough employees or contracted workers to effect compliance and abatement of any nuisance on the subject premises, including entry onto private property. After said compliance work is completed, statements for work performed, shall be prepared by the Borough Secretary. Said statements shall indicate the description of the premises, titled owner, the cost of work performed, administrative charge, disposal costs, and all other costs, if any, shall be filed as a lien against the premises affected, and such lien shall continue in force until the full amount thereof, together with interest at the rate of six (6%) percent per annum, is paid in full.

SECTION 7. Penalty.

In addition to the lien provided for herein, whoever violates or fails to comply with the provisions of the Ordinance shall be, upon conviction thereof, sentenced to pay a fine not less than Three Hundred Dollars (\$300.00), nor more than One Thousand Dollars (\$1,000.00), plus costs and restitution as determined for work performed and charges assessed and/or paid by the Borough, and in default of payment of said fine, costs, restitution, to a term of imprisonment not to exceed thirty (30) days. All fines, restitution and Borough charges imposed and collected under the provisions of this Ordinance shall be paid to the Borough. Each day that an offense/violation continues shall constitute a separate offense/violation.

SECTION 8. Separability.

If any section, subsection, sentence, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court or agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 9.

This Ordinance shall become effective immediately.

This is a sample ordinance. We suggest that it be modified, as appropriate, to fit the needs of your borough. We also suggest that all proposed ordinances be reviewed by your solicitor. Although these are samples of ordinances which have been adopted by other municipalities, the Association cannot assume responsibility for ensuring their legality. We are pleased to provide this service free of charge to our members. If we can be of further assistance, please do not hesitate to contact us: **PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES**, 2941 North Front Street, Harrisburg, PA 17110. 717-236-9526.