

ORDINANCE NO. _____ of 2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NANTICOKE
ESTABLISHING A JUNK STORAGE AND ANTI-CLUTTER ORDINANCE;
SETTING FORTH DEFINITIONS AS TO THE PROPERTY COVERED BY THE
ORDINANCE; DESIGNATING PROHIBITED ACTS RELATIVE TO THE STORAGE OF
JUNK AND CLUTTER; SETTING FORTH EXCLUSIONS AND PRESCRIBING
ENFORCEMENT AND PENALTY PROVISIONS

WHEREAS, the City Council of the City of Nanticoke has determined that the storage of junk and clutter on properties in the City causes conditions which impact the health and safety of the residents of the City of Nanticoke and negatively impacts property values;

WHEREAS, the City Council of the City of Nanticoke desires to enact an Ordinance to address these conditions.

NOW THEREFORE BE IT ORDAINED AND ENACTED by the City Council of the City of Nanticoke as follows:

1. Chapter 368 of the City of Nanticoke Code of Ordinances shall be amended to include Article 3 which shall include the following provisions:
 1. Title. This Ordinance shall be known as the City of Nanticoke's Junk Storage and Anti-Clutter Ordinance.
 2. Definitions. The following definitions shall apply to this Ordinance:
 - A. Enclosed Porch, Deck, Patio or Balcony shall mean a platform located at and attached to or abutting against the entrance to a residential building, completely covered by a roof or enclosed by a fully intact glass and/or fully intact screens. Screens are framed wire mesh or framed plastic mesh used to prevent intrusion by insects, but permitting air flow.
 - B. Front Yard shall mean that part of the property whereby the front of the house or other residential building faces the public street and encompasses that open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and nearest point of the main residential building.
 - C. Open Storage shall mean such storage or accumulation of items which are visible from any public street, alley or sidewalk or from any adjacent property.
 - D. Owner shall mean any individual, corporation, partnership or any other groups as a unit having a legal or equitable interest in a property, including the guardian or the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of

real property by a court, provided that any ownership right created by an installment sales agreement or land contract shall be recorded with the Office of the Recorder of Deeds in and for Luzerne County.

- E. Person shall mean any individual, partnership, association, corporation or entity of any other kind, including any tenant or lessee of any real property.
- F. Yard shall mean any open unoccupied space, other than a courtyard, unobstructed from the ground to the sky, on a lot upon which a residential building is situated.

3. Prohibited Acts.

No person within or upon any property designated for use as or used for residential purposes situated within the municipal limits of the City Nanticoke shall store, collect, park, leave, deposit, maintain, reserve, put aside for future use, permit or allow to remain on any porch, deck, balcony, roof, patio, yard or curtilage of any residential building or structure, other than in a completely enclosed building or structure, any of the following:

- A. Junk, rubbish, clutter, litter, debris, disabled automobiles, other motor vehicles or motorized equipment, implements or machinery or any component parts or accessories thereof, household appliances or any component parts or accessories thereof.
- B. Lumber or other building materials or equipment, except for those materials or equipment related to projects for which a current valid building permit has been issued. Building materials shall include, but are not necessarily limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts, shingles, mortar, concrete or cement, nails, screws or any other materials or equipment generally used in construction.
- C. Upholstered furniture, mattresses, materials and other similar products or second-hand items or goods not normally intended, designed, built or manufactured for outdoor use unless such is located entirely within an enclosed porch, balcony, deck or patio attached to the primary residential building.

4. Exclusions.

The provisions of this Ordinance shall not apply to the storage or placement upon any property of the following materials:

- A. Firewood intended for consumption in a wood burning stove, furnace, or indoor fireplace or outdoor patio fireplace located within or outside a building located upon the subject premises, provided that all such firewood shall, at all times, be stacked and stored in an appropriate place, but in no event upon the front porch of any house or other residential structure.
- B. Lawn, yard, garden or playground tools, ornaments, equipment or implements.
- C. Lawn or patio furniture.

D. Standing fences.

E. Hoses or sprinklers used for watering lawns or gardens.

F. Materials used in connection with commercial activities conducted upon the premises where such storage, placement and accumulation of materials have been expressly authorized by the City of Nanticoke.

G. Construction materials and equipment used for the construction, renovation or razing of a building located upon the premises for which a current building or razing permit has been issued.

5. Enforcement.

A. Enforcement and Inspection Officer. The enforcement and inspection officer for purposes of this ordinance shall be the duly appointed Code Enforcement Officer of the City of Nanticoke. The Code Enforcement Officer is hereby designated as the City official to whom all complaints of non-compliance with the provisions of this ordinance shall be directed. The Code Enforcement Officer is authorized to conduct any and all reasonable or necessary inspections whether such inspection arises from (1) a citizen complaint filed with the City or (2) non-compliance with the provisions of this ordinance as observed by the officer during the course of any general inspection undertaken of the neighborhood. The Code Enforcement Officer further is authorized to issue and cause to be served or mailed, written notices to any residential property owner whose property is deemed by the officer to violate the provisions of this ordinance. Any such written notice shall specifically identify all violations arising under this ordinance and the steps necessary to bring the property into full compliance herewith. Such notices shall provide the owner of any offending property with fifteen (15) days from acceptance of service or certified receipt of any mailed notice to bring his property into compliance with this ordinance. Prior to the issuance of any citation and prosecution for a violation of this ordinance, the Code Enforcement Officer shall conduct a second inspection to determine if the offending property has been brought into full compliance with the provisions of this ordinance.

B. Citizen Complaints. Any person may file a complaint with the City's Code Enforcement Officer alleging that a violation of this ordinance has occurred or is occurring. The Code Enforcement Officer shall promptly investigate all complaints. Following an inspection and upon determining that a violation of this ordinance has occurred, the Code Enforcement Officer shall issue a Notice of Violation and Compliance to the accused violator and said notice shall either be personally served by the officer or mailed to the violator by certified mail return receipt requested. If service can't be achieved via this method then service can be accomplished via regular mail, which shall be deemed good service if not returned within 10 days of mailing or via posting of the premises.

C. Notice of Violation and Compliance. The written notice prepared by the City's Code Enforcement officer shall contain the following information:

1. The name of the titled owner and occupant or tenant, if the occupant or tenant is different from the titled owner to whom the notice shall be addressed.
2. The address and location of the property in violation.
3. A statement setting forth the violations of this ordinance.
4. A demand that corrective action be taken by the property owner within fifteen (15) days following service or other receipt of the written notice.
5. A statement that failure to comply with the notice shall (a) result in the issuance of a citation and upon finding of guilt, the imposition of a fine against the violating property owner and (b) result in the City's remedy and removal of the violating conditions on the subject property with the costs thereof, together with a penalty, subject to collection by the City in an action before the District Justice or the entry of said costs and penalty as a lien against the offending property.
6. Enclosure of a copy of this ordinance.

D. Continued Violation Following Violator's Service or Receipt of Written Notice. If any reported violation of this ordinance continues after service upon or certified mail receipt by the violating property owner and/or tenant of the violating property of the written notice, or other method of service provided for above, the Code Enforcement Officer shall then promptly refer the matter for citation issuance.

6. Penalties.

A. Any person, firm or corporation who shall violate any provision of this code shall, upon conviction thereof in a summary proceeding before a district justice, be subject to a fine of not less than \$100.00 nor more than \$300.00. Each day that the offending condition exists shall constitute a separate offense.

B. In addition to the penalties set forth in subsection A, if any owner fails or refuses to remedy the condition within fifteen (15) days following service or other receipt of the written notice, the City, upon the Code Enforcement Officer's confirmation of default by the owner, may cause the condition to be remedied or removed and collect the cost thereof, together with a penalty of ten per centum of such cost, from the owner by an action before the District Justice. The cost of removal and the penalty may, in the alternative, be entered as a lien against such property in accordance with existing provisions of law. In the exercise of the powers herein conferred, the City may institute proceedings in courts of equity.

7. Repealer.

All Ordinances or parts of Ordinances of the City of Nanticoke in conflict with this Ordinance to the extent of such conflict, and no further, are hereby repealed.

8. Severability.

The provisions of this Ordinance are severable and if any section, sentence, clause, revision, part or other portion hereof shall be held unconstitutional, illegal, invalid or otherwise ineffective, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Nanticoke that this Ordinance would have been adopted had such unconstitutional, illegal, invalid, or otherwise ineffective section, sentence clause, or provision, part or other portion not been included herein.

9. Effective Date.

This ordinance shall become effective within thirty (30) days of enactment as provided for in the Home Rule Charter of the City of Nanticoke.

ORDAINED and ENACTED by the CITY COUNCIL OF THE CITY OF NANTICOKE,

this _____ day of _____, 2017.

ATTEST:

CITY OF NANTICOKE:

Mary Beth Cheshinski, City Clerk

William Brown, Council President

APPROVED:

VETO:

Richard Wiaterowski, Mayor

Richard Wiaterowski, Mayor

Date Approved

Date Vetoed