

Chapter 104

NUISANCES

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| <p>§ 104-1. Definitions.</p> <p>§ 104-2. Prohibited acts.</p> <p>§ 104-3. Responsibilities of owners, occupants and others.</p> | <p>§ 104-4. Enforcement; notice.</p> <p>§ 104-5. Violations and penalties.</p> <p>§ 104-6. Presumption of liability.</p> |
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[HISTORY: Adopted by the Board of Supervisors of the Township of Wright 12-11-1978 as Ord. No. 85. Amendments noted where applicable.]

GENERAL REFERENCES

Outdoor burning—See Ch. 67.
Junkyards—See Ch. 94.

Zoning—See Ch. 145.

§ 104-1. Definitions.

As used in this chapter, the following words shall have the meanings hereinafter set forth:

ASHES—Residue from fires used for cooking and for heating buildings.

COMBUSTIBLE WASTES—All waste substances capable of incineration or burning, but excluding explosive or highly flammable material.

GARBAGE—Waste resulting from the handling, preparation, cooking and consumption of food and waste from the handling, storage and sale of produce.

NON-COMBUSTIBLE WASTE—All waste substances not capable of incineration or burning, including ashes, glass, metal, earthenware and the like.

OWNER—The owners, tenants, lessees and/or occupants of any lot or premises within the corporate limits of Wright Township.

PERSON—Any individual, partnership, corporation, unincorporated association or any other legal entity, and shall include both the singular and plural forms of each word.

REFUSE—All waste substances, including garbage as well as combustible and noncombustible wastes.

SEWAGE—A combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground-, surface or stormwaters as may be present.

TRASH—See “refuse.”

§ 104-2. Prohibited acts. [Amended 7-9-2012 by Ord. No. 234]

The following are hereby deemed and declared to be nuisances, dangerous and injurious to the public's health, safety and welfare, and are specifically prohibited. Prohibited acts shall include the keeping, maintaining, permitting or allowing on any premises situate in Wright Township of:

- A. The depositing or scattering over premises of debris, garbage, lumber, junk, refuse or trash.
- B. Unsheltered storage of old, unused, stripped, junked, abandoned, discarded or unused objects, equipment, machinery, implements and/or any other personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, including but not limited to furniture, appliances, stoves, refrigerators, freezers, cans, containers, clothing, etc., for a period of fifteen (15) days or more, except this subsection shall not apply with regard to any of the aforescribed property being stored on premises holding a valid Wright Township junkyard license.¹
- C. Unsheltered storage of stripped, junked, abandoned, discarded, partially dismantled, wrecked or otherwise non-operating motor vehicle on any premises longer than thirty (30) days, except that this subsection shall not apply with regard to any vehicle in an enclosed building or with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district and operated in a lawful manner when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise, nor to premises holding a valid Wright Township junkyard license when such unsheltered storage poses any public danger, inconvenience, or distraction such as, but not limited to, affect property values, create an attractive nuisance for children, begin to harbor pests or vermin, begin to leach dangerous chemicals into the ground or surrounding water table, emit offensive odors or constitute any other type of nuisance in fact. **[Amended 7-9-2012 by Ord. No. 234]**
- D. The growing or growth on any lot or tract of land or premises of any weed such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind, grass or plants, other than trees, bushes, flowers or other ornamental plants, when the same are permitted to grow to a height exceeding twelve (12) inches.
- E. Any combustible waste or refuse, garbage or trash, including but not limited to wastepaper, hay, grass, straw, weeds, litter, etc., in such a manner so as to create a fire hazard.
- F. The depositing or leaving of any refuse, garbage or trash or any other material in such a place or condition that it can be blown by the wind so as to be scattered and cause clouds of dust or particles.
- G. The throwing, depositing or disposal of any garbage, refuse, trash, including but not limited to glass, tacks, nails or other similar articles, weeds, grass, leaves, branches, wastepaper, straw, combustible or noncombustible wastes or rubbish of any kind in any street, alley, public right-of-way or any other public place in the Township of Wright.
- H. To cause or permit the emission of dense smoke from any fire, chimney, engines, oil burner or any other agency in the Township of Wright so as to cause annoyance or discomfort for the residents thereof. For the purpose of this subsection and for the purpose of testing and grading the density of smoke, smoke shall be and is hereby defined and declared to be "dense" when it is of a sixty percent (60%) or greater opacity for more than six (6) minutes

¹ Editor's Note: See Ch. 94, Junkyards.

of any one (1) hour, whether such period of time is consecutive or not as may be determined by visual observations made in accordance with recommended and approved procedures established by the Pennsylvania Department of Environmental Resources for the visual calculation of smoke opacity.

- I. Any open drain, sewer or cesspool or by failing to properly dispose of sewage or refuse so as to permit, create or cause or contribute to any unsightly, nauseous or unhealthful condition on any premises.
- J. To place or deposit or permit to be placed or deposited any ashes, garbage, refuse, trash, debris or any other materials of any kind or nature into or across any stream, ditch, culvert pipe, watercourse or other drainage system in the Township of Wright.
- K. In acting or failing to act in any manner which results in the filling, obstructing, damaging or otherwise changing or altering the natural or artificial flow of waters or drainage or the intensity of the quantity of flow through any stream, ditch, culvert pipe, watercourse or other improvement or drainage system in Wright Township.
- L. In permitting to exist any condition or use of any premises or building exterior which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such offending premises are located.
- M.² Machinery.

(1) The operation on private or public property between the hours of 10:00 p.m. one day and 7:00 a.m. of the next day (prevailing local time) within any residential or commercial district as defined and identified in Chapter 145, Zoning, of any of the following electric, gasoline, diesel fuel, oil or steam powered items, devices, machines or equipment:

- (a) Items, devices, machines and equipment used for home or building repair or grounds maintenance, including but not limited to lawnmowers, lawn or garden tractors, garden tools, trimmers, snow throwing or removal equipment, chain saws, hand tools, log splitters, log chippers, mulchers, etc., except when used in emergency circumstances.
- (b) Items, devices, machines and equipment used for the production or reproduction of sound, including but not limited to radios, radio receiving sets, musical instruments, televisions, phonographs, drums, tape recorders, tape decks and amplifying equipment, etc.

(2) The restrictions set forth in this subsection shall not apply to band concerts, band activities or parades conducted under the auspices of Wright Township, the Crestwood Area School District or any other established and recognized church or civic organization utilizing premises located within Wright Township.

§ 104-3. Responsibilities of owners, occupants and others.

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

It shall be unlawful for any person in charge of or in control of any premises situate in Wright Township, whether as owner, lessor, lessee, tenant, occupant or otherwise, to keep, maintain, permit or allow any nuisance thereon. Any act or actions of either commission or omission on the part of any person in charge of or in control of any such premises in any capacity as aforesaid which results in the keeping, maintaining, permitting or allowing of a nuisance or results in the failure to prevent or prohibit the keeping, maintaining, permitting or allowing of a nuisance is specifically prohibited.

§ 104-4. Enforcement; notice.

- A. In the event that any person shall violate the terms and provisions of this chapter by keeping, maintaining, permitting or allowing a nuisance to exist on any premises situate in Wright Township the Board of Supervisors of Wright Township or its designated agent shall serve or cause to be served upon each or all of the persons apparently in charge of said premises, whether it is an owner, lessor, lessee, tenant, occupant or otherwise, a notice of said violation on a form to be approved by the Board of Supervisors of Wright Township.
- B. Said notice as required above shall contain the following information:
- (1) A brief summary of the specific violation and section of this chapter violated.
 - (2) Instructions to correct, remove or otherwise abate said nuisance within fifteen (15) days in the case of violations of § 104-2, Subsections A through L above or within one (1) day [twenty-four (24) hours] in the case of violations of § 104-2M above.
 - (3) A statement that in the event that said nuisance is not corrected, removed or otherwise abated within the prescribed period of time, the Board of Supervisors of Wright Township or its designated agent may take whatever actions are deemed appropriate by said Board to correct, remove or otherwise abate said nuisance.
 - (4) A statement notifying the person(s) served with said notice that he, she or they will be held jointly and severally liable for the costs incurred by the township in correcting, removing or otherwise abating said nuisance and, further, that if said charges remain unpaid, it will result in a lien being placed against said premises or property.
 - (5) A statement that, in addition to the foregoing penalties, the person(s) may also be subject to criminal and civil prosecution.
- C. In the event that a person served with notice as required in Subsection B above does not correct, remove or otherwise abate the nuisance resulting in violation of this chapter within the prescribed number of days as set forth in said notice, the township or its designated agent may take such action as deemed appropriate by said Board or its designated agent to correct, remove or otherwise abate said nuisance, keeping an account of the expense of the correction, removal or abatement of said nuisance, such expense to be and shall be charged to and paid by such person(s) served with the aforesaid notice and charged with said violation.
- D. Abatement, correction and removal; charges.
- (1) In the event that a nuisance is corrected, removed or otherwise abated by the Board of Supervisors of Wright Township or its designated agent, following the correction, removal or abatement of said nuisance the Board of Supervisors of Wright Township

or its designated agent shall promptly prepare and forward a statement for charges incurred by the township in correcting, removing or otherwise abating said nuisance. Said itemized statement of charges shall be forwarded to those persons served with notice prior to the correction, removal or abatement of said nuisance by the township.

- (2) Whenever a statement for charges incurred by the township for correcting, removing or abating a nuisance remains unpaid for sixty (60) days after it has been forwarded as set forth above, the Board of Supervisors of Wright Township may file in the appropriate office and with the appropriate officials in and for the County of Luzerne a statement setting forth a municipal lien claim. This statement shall conform to all requirements for the filing and processing of such a claim and shall contain a legal description of the premises, the expense and costs incurred, the date or dates said expenses and costs were incurred and notice that the Township of Wright claims a lien against said premises for said amount.
- (3) Notice of the aforesaid municipal lien claim shall be mailed to the owner of the premises upon which said expenses and costs were incurred if said owner's address is known; provided, however, that the failure of the Board of Supervisors of Wright Township or its designated agent to record such a lien claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for such charges as provided in the following section.
- (4) Property subject to a municipal lien on behalf of Wright Township for unpaid costs and expenses incurred in the correction, removal or otherwise abating a nuisance shall be sold for nonpayment of said charges and the proceeds of such sale shall be applied to pay said charges and expenses after deducting costs as may have been reasonably incurred in the foreclosure proceedings as provided for in the case of statutory liens. Such foreclosure proceedings shall be in equity and shall be brought in the name of the Township of Wright.
- (5) The Township Solicitor is hereby authorized and directed and empowered to institute such foreclosure proceedings in the name of the township, in any court having jurisdiction over such matter, against any property for which such bill for costs and expenses incurred has remained unpaid sixty (60) days after it has been forwarded.

E. Other remedies.

- (1) It is specifically provided herein that in lieu of the foregoing remedies for collection of unpaid bills incurred by the township in the correction, removal or otherwise abating a nuisance, the Board of Supervisors of Wright Township or its designated agent may, in its discretion, institute civil proceedings at law against any person or persons served with notice as aforesaid for the collection of any amounts incurred as costs and expenses by the Township of correcting, removing or otherwise abating a nuisance.
- (2) It is herein provided that the remedies and penalties set forth above, except as may be so stated, are not exclusive but are in addition to all other remedies and penalties provided herein for violations of the terms and provisions of this chapter.

§ 104-5. Violations and penalties.

- A. Except as hereinbefore may have been specifically provided, any person who shall be convicted before any District Justice of violating or failing to comply with any of the terms and provisions of this chapter shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.), together with costs of prosecution, and, in default of payment of such fine and costs, may be sentenced to imprisonment in the county jail for a term not to exceed thirty (30) days.³
- B. The continuation of any violation of any term or provision of this chapter shall constitute a separate offense for each successive day of violation, and the person or persons allowing or permitting the continued violation may be convicted and punished as provided in Subsection A above for each day as constituting and being a separate offense under the terms and provisions of this chapter.

§ 104-6. Presumption of liability.

For the purposes of enforcement of the terms and provisions of this chapter and for the purposes of ascertaining joint and/or joint and several liability as the case may be, it is hereby ordained that any person who is the record owner of any unoccupied premises in the Township of Wright and/or the occupant of any premises in the Township of Wright where a nuisance is kept, maintained, permitted or allowed in violation of the terms and provisions of this chapter is and shall be deemed to be effectively in control of said premises and is presumed to be liable for all acts or actions on said premises and, further, is presumed to be liable for keeping, maintaining, permitting or allowing a nuisance to be continued on said premises or property.

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