

CHAPTER 10

HEALTH AND SAFETY

Part 1

Storage of Motor Vehicles, Accessories and Junked Motor Vehicles

- §101. Definitions
- §102. Prohibited Storage
- §103. Permitted Storage
- §104. Investigation of Premises
- §105. Notice of Removal
- §106. Penalties

Part 2

Storage and Use of Personal Property

- §201. Nuisances; Prohibited Use or Storage
- §202. Abatement of Nuisance by Owner
- §203. Penalties
- §204. Abatement of Nuisance by Borough
- §205. Enforcement

Part 3

Weeds and Other Vegetation

- §301. Vegetative Growth a Nuisance Under Certain Conditions
- §302. Responsibility for Removing, Cutting or Trimming
- §303. Notice to Remove, Trim or Cut; Municipality May do Work and Collect Cost and Additional Amount
- §304. Penalties for Violation

Part 4

Reimbursement for Services and Expenses for Occurrences That Affect Health, Safety, Welfare or Orderly Business

- §401. Definitions
- §402. Administration
- §403. Emergency Conditions
- §404. Enforcement

HEALTH AND SAFETY

§405. Emergency Services Not to be Delayed or Denied

Part 5

Property Defacement; Graffiti

- §501. Purpose and Intent**
- §502. Definitions**
- §503. Unlawful to Apply Graffiti; Prohibition of Defacement**
- §504. Graffiti Declared Public Nuisance**
- §505. Removal of Graffiti by Perpetrator**
- §506. Removal by the Owner, the Occupant or the Borough**
- §507. Fines and Penalties**

Part 1

Storage of Motor Vehicles, Accessories and Junked Motor Vehicles

§101. Definitions.

For the purpose of this Part 1, the following definitions shall be applicable:

JUNKED MOTOR VEHICLE – any motor vehicle which is partially dismantled or wrecked and which cannot be safely or legally be operated.

MOTOR VEHICLE – any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies, and other off-the-road vehicles.

MOTOR VEHICLE ACCESSORIES – any part or parts of any motor vehicle.

PERSON – includes any individual, firm, partnership or corporation.

PRIVATE PROPERTY – any real property not owned by the federal government, state, county, city school board or other public subdivisions.

REMOVAL – the physical relocation of a motor vehicle to an authorized location.

(Ord. 592, 9/8/1982, §1)

§102. Prohibited Storage.

It shall be unlawful for any person owning or having custody of any junked motor vehicle or motor vehicle accessories to store or permit any such vehicle or accessories to remain on any private property within the Borough for a period of more than 20 days following receipt of a notice requiring such removal, and it shall be further unlawful for any person owning any private property in the Borough to store or permit to remain any such vehicles or accessories on his property for more than a like period. Such storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this Part 1.

It shall be unlawful for any person, after notification to remove any junked motor vehicles or motor vehicle accessories from any private property upon which such storage is not permitted or onto any public highway or other public property for purposes of storage.

(Ord. 592, 9/8/1982, §2; as amended by Ord. 670, 5/10/1989, §1)

HEALTH AND SAFETY

§103. Permitted Storage.

This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place of depository maintained in a lawful place and manner, or seasonal-use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers. Such business enterprises shall not include automobile service stations or tire, battery and accessory sales stores. Such business enterprises shall include auto junkyards and auto repair and auto body shops; provided, however, that, with respect to auto repair and auto body shops, the permitted storage as provided by this section shall not apply to any motor vehicle or motor vehicle accessories stored on the premises of such businesses for a period in excess of 90 days. Junked motor vehicles stored or maintained on the premises of an auto repair or auto body shop for a period beyond 90 days shall constitute prohibited storage under §102 hereof.

(Ord. 592, 9/8/1982, §3)

§104. Investigation of Premises.

The Zoning and Building Codes Officer or the Chief of Police, on routine inspection or upon receipt of a complaint, may investigate a suspected junked motor vehicle or motor vehicle accessories and record the make, model, style and identification numbers and its situation.

(Ord. 1005, 9/8/1982, §4)

§105. Notice of Removal.

Whenever the Zoning and Building Codes Officer or the Chief of Police or any member of their departments finds or is notified that any junked motor vehicle or motor vehicle accessories have been stored or permitted to remain on any private property within the Borough, the Zoning and Building Codes Officer or the Chief of Police shall send by certified mail a notice to the owner of record of such motor vehicle or accessories, if such owner can be ascertained by the exercise of reasonable diligence, and also to the owner of the private property, as shown on the tax assessment records of the city, on which the same is located to remove the junked motor vehicle or motor vehicle accessories within 20 days. Such notice shall also contain the following additional information:

- A. Nature of complaint;
- B. Description and location of the motor vehicle and/or motor vehicle accessories;
- C. Statement that the motor vehicle or motor vehicle accessories will be removed from the premises no later than 20 days from date of notification;

- D. Statement that removal from the location specified in the notification to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties;
- E. Statement that if removal is made within the time limits specified, notification shall be given in writing to the Zoning and Building Codes Officer or the Chief of Police; and
- F. Statement of the penalties provided for noncompliance with such notice.

(Ord. 592, 9/8/1982, §5; as amended by Ord. 670, 5/10/1989, §2)

§106. Penalties.

Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300, together with costs of prosecution, or to imprisonment for a term not to exceed 30 days. Every day that a violation of this Part 1 continues shall constitute a separate offense.

(Ord. 592, 9/8/1982, §6; as amended by Ord. 599, 12/19/1983)

Part 2

Storage and Use of Personal Property

§201. Nuisances; Prohibited Use or Storage.

- A. Unsheltered Storage of Unused or Unusable Personal Property a Nuisance. Unsheltered storage of any machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, which hereinafter is collectively described as "said personalty," for a period of 20 days or more (except in licensed junkyards) within the corporate limits of this Borough, is hereby declared to be a nuisance and dangerous to the public safety.
- B. Use or Storage of Indoor Furniture. The use, keeping of storage of any upholstered furniture, including mattresses, manufactured primarily for indoor use shall be prohibited in any yard or any unenclosed porch.

(Ord. 556, 9/1/1976; as amended by Ord. 887, 7/2/2008)

§202. Abatement of Nuisance by Owner.

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this Borough upon which such storage is made, and also the owner, owners, and/or lessees of said personalty involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate said nuisance by the prompt removal of said personalty into completely enclosed buildings authorized to be used for such storage purposes if within the corporate limits of the Borough, or otherwise to remove it to a location without said corporate limits.

(Ord. 556, 9/1/1976; as amended by Ord. 887, 7/2/2008)

§203. Penalties.

Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300, together with costs of prosecution, or to imprisonment for a term not to exceed 30 days.

(Ord. 556, 9/1/1976; as amended by Ord. 599, 12/19/1983; and by Ord. 887, 7/2/2008)

HEALTH AND SAFETY

§204. Abatement of Nuisance by Borough.

Whenever said owners fail to abate said nuisance, then the Borough shall remove the said personalty to a location of its selection, the expenses therefor to be billed to said owners, jointly and severally, said bill to be recoverable in a suit at law.

When said personalty has been removed and placed in storage by the Borough, as provided for herein, said personalty shall be sold by the Borough after the lapse of such time as is provided by law. If the proceeds of such sale are insufficient to pay the costs of abatement, said owners shall be liable to the Borough for the balance of the costs, jointly and severally, to be recoverable in a suit at law. If the proceeds are in excess of costs the balance shall be paid to the said owners, or deposited in the Borough Treasury for their use.

(Ord. 556, 9/1/1976; as amended by Ord. 887, 7/2/2008)

§205. Enforcement.

The Code Enforcement Officer or the Chief of Police are hereby empowered to enforce the provisions of this Part.

(Added by Ord. 599, 12/19/1983; as amended by Ord. 887, 7/2/2008)

Part 3

Weeds and Other Vegetation

§301. Vegetative Growth a Nuisance Under Certain Conditions.

No person, firm or corporation, owning or occupying any property within the Borough of Stroudsburg shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of 10 inches, or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit, or to create or produce pollen. Any grass, weeds or other vegetation growing upon any premises in the Borough of Stroudsburg in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough.

(Ord. 599, 12/19/1983)

§302. Responsibility for Removing, Cutting or Trimming.

The owner of any premises, or the occupant of premises occupied by other than the owner, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of §301.

(Ord. 599, 12/19/1983)

§303. Notice to Remove, Trim or Cut; Municipality May Do Work and Collect Cost and Additional Amount.

The Borough Council, or any officer or employee of the Borough of Stroudsburg designated thereby for this purpose, is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of §301 of this Part, directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation, and to continually maintain the premises so as to conform to the requirements of this Part, within five days after issuance of such notice. The service of one notice shall be considered sufficient notice for the remaining growing season. Whenever, in the judgment of the Enforcement Officer/Inspector it shall appear to be impracticable to give notice as above provided, either because the owner or occupant cannot readily be found or because a search for the owner or occupant would entail unreasonable delay, the Borough Council or any officer or employee of the Borough designated thereby for that purpose, may give notice by posting conspicuously on the property where such nuisance exists, a notice or order directing and requiring that such nuisance be abated within five days. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough Council may order the removal, trimming or cutting of such grass, weeds or

HEALTH AND SAFETY

vegetation, and the cost thereof, together with a penalty of 10% of the cost thereof, shall be collected by the Borough from such person, firm or corporation, in the manner provided by law.

(Ord. 599, 12/19/1983; as amended by Ord. 671, 5/10/1989, §1)

§304. Penalties for Violation.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300, and/or to undergo imprisonment for a term not to exceed 90 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 599, 12/19/1983)

Part 4

Reimbursement for Services and Expenses for Occurrences That Affect Health, Safety or Orderly Business

§401. Definitions.

EXPENSES, COSTS and FEES – those expenses, costs and fees that are incurred by the Borough, or charged to the Borough by any local agency, state, or federal department or agency, emergency services organization and from any contractor employed by the Borough for actual costs or charges for labor, materials, or damaged or destroyed equipment or property in responding to an occurrence and associated with the implementation of a protective action (i.e., detour, evacuation) to protect the public health, safety and welfare. The cost of labor shall include the actual rates, including fringe benefits, paid by the Borough of Stroudsburg to its employees, the Borough Local Emergency Management Coordinator and Deputy Coordinator.

HAZARDOUS MATERIALS OR SUBSTANCES – petroleum and its derivatives, explosives, flammables, acids, oxidizing chemicals, poison gases, defoliants, and any materials or substances regarded and defined as hazardous by the Pennsylvania Department of Environmental Protection or its successor agency.

NONHAZARDOUS MATERIALS OR SUBSTANCES – any materials or substances in any shape, form, or composition, including but not limited to garbage, trash, vegetation, construction and demolition, equipment, machinery, vehicles or similar items that require a halting or detouring of traffic for the removal or cleaning and repair of the roadway or area damaged or causes the evacuation of persons, animals or property to insure the safety, health and welfare of persons, animals or property.

OCCURRENCE – an occurrence involving hazardous or nonhazardous material or a hazardous or nonhazardous substance that is or may result in Borough employees, volunteers or Borough equipment being called to the scene; released into the air, ground or water or the threat of any potential release into the air, ground or water or the threat of any potential release; or a situation that requires a halting or detouring of traffic or an evacuation of persons or animals from an area to insure the health, safety and welfare of persons or their property.

PROTECTIVE ACTION – an action, such as traffic control, detours, covering, cleanup, removal or evacuation, taken by the Borough or by other officials or agencies in order to protect the public health, safety and welfare.

SERVICES – a service performed by the Borough departments or employees or any public or private sector organization, agency or company directly associated with traffic control and monitoring or otherwise mitigating the occurrence or involved in providing service to implement a protective action. These services may

HEALTH AND SAFETY

include but are not limited to the abatement and disposition of hazardous and nonhazardous materials, spills, releases or the threat of spills or releases of hazardous and nonhazardous materials, utility line breaks or leakages and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be detailed or contemplated in the definition of "expenses, costs and fees" above.

(Ord. 778, 6/16/1999, §1)

§402. Administration.

The Borough of Stroudsburg shall impose and collect from the person, partnership, corporation or other entity responsible for an occurrence the following costs, expenses and fees incurred:

- A. Fees and costs (including overhead costs) shall encompass all personnel, equipment, fuel, materials and maintenance expenses in such a form as to insure for full reimbursement for charges from both the public and private sectors for services actually rendered.
- B. Within 30 days of the date of the occurrence giving rise to the service, the affected public agencies, departments, or private companies shall submit their service-related costs, fees, charges and expenses to the Borough for review. At such time as all costs, fees, charges and expenses related to the services have been collected and reviewed, but in any case not later than 60 days from the date of determining the combined cost of rendering services, the Borough of Stroudsburg shall submit a bill for all costs, fees, charges and expenses to the owner, agent, or manager of the vehicle or fixed facility that caused the occurrence requiring services, with a demand that a full remittance be made within 30 days of receipt.
- C. All monies received under the provisions of this chapter shall be placed into the general fund and reimbursement shall be made to all public and private sector departments or agencies that had submitted related costs, fees, charges and expenses for providing an extraordinary service as outlined herein, either in full or pro-rata as the funds recovered allow.

(Ord. 778, 6/16/1999, §2)

§403. Emergency Conditions.

In the event of a spill, leak or fire involving petroleum, chemicals, and/or hazardous or nonhazardous materials if the shipper, carrier, or owner of said products does not have a contract with a professional hazardous materials cleanup crew (DEP-EPA approved) and/or if conditions warrant, the Borough of Stroudsburg Emergency Services Coordinator shall have the authority to contact a private firm for cleanup, control, containment

or extinguishment and shall not be limited to the disposal of said hazardous or nonhazardous products or substances.

(Ord. 778, 6/16/1999, §3)

§404. Enforcement.

The Borough of Stroudsburg may enforce the provisions of this Part by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorney's fees and costs or for any other relief that may be appropriate.

(Ord. 778, 6/16/1999, §4)

§405. Emergency Services Not to be Delayed or Denied.

Nothing in this Part shall authorize any Borough of Stroudsburg department or staff members to refuse or delay an emergency service to any person, firm, organization or corporation that has not reimbursed the Borough of Stroudsburg for services. Furthermore, nothing in this section shall be construed to require reimbursement to the Borough of Stroudsburg for those municipal services normally provided to the Borough of Stroudsburg residents and others as a matter of the Borough of Stroudsburg's general operating procedure and for which the levying of taxes or for which the demand for reimbursement is normally made under the provisions of other Borough ordinances.

(Ord. 778, 6/16/1999, §5)

Part 5

Property Defacement; Graffiti

§501. Purpose and Intent.

1. The purpose of this Part is to help prevent the spread of graffiti and to establish a program for its removal from Borough-owned property and non-Borough-owned property within the Borough.
2. The Borough Code, 53 P.S. §46202, authorizes the Borough to prohibit and remove any nuisance, to require the removal of any nuisance, to make such regulations as may be necessary for the health, safety, general welfare, cleanliness, beauty, convenience and comfort of the Borough and to make and adopt all such ordinances, bylaws, rules and regulations as may be expedient or necessary for those purposes.
3. The Borough Council finds and determines that graffiti is obnoxious and a public nuisance and unless the Borough causes it to be removed from Borough-owned and non-Borough owned property within the Borough, it tends to remain. Other properties then become the target of graffiti with the result that entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the Borough.
4. It is the purpose of the Borough Council of the Borough of Stroudsburg, through the adoption of this Part, to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement, including the application of graffiti on walls, natural objects and structures. Such acts are destructive of the rights and values of property owners as well as the entire community.

(Ord. 763, 5/6/1998, §501)

§502. Definitions.

For the purposes of this Part, the following words shall have the meanings respectively ascribed to them in this section:

AEROSOL PAINT CONTAINER – any aerosol container which is adapted or made for the purpose of applying spray painting, or other substance capable of defacing property.

FELT-TIP MARKER – any indelible marker or similar implement with a tip which, at its broadest width, is greater than 1/8 of an inch, containing ink or other pigmented liquid which is not water-soluble.

HEALTH AND SAFETY

GRAFFITI – any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to or on any surface of Borough-owned property or non-Borough-owned property within the Borough by or with, but not limited to, any of the following: felt-tip marker, paint stick or graffiti stick, or graffiti implement, to the extent that the same was not authorized in advance by the owner or occupant thereof or, despite advance authorization, is otherwise deemed by the Board to be a public nuisance.

GRAFFITI IMPLEMENT – an aerosol paint container, a felt-tip marker, gum label, paint stick or graffiti stick, etching tool, or any other device capable of scarring or leaving a visible mark on glass, metal, concrete or wood or any other surface.

PAINT STICK or GRAFFITI STICK – any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, of leaving a mark at least 1/8 of an inch in width.

(Ord. 763, 5/6/1998, §502)

§503. Unlawful to Apply Graffiti; Prohibition of Defacement.

It is unlawful for any person to apply graffiti to any trees, other natural features, or structures including but not limited to buildings, walls, fences, poles and signs (hereinafter "structures") on any Borough-owned property or, without the permission of the owner or occupant, on any non-Borough-owned property within the Borough.

(Ord. 763, 5/6/1998, §503)

§504. Graffiti Declared Public Nuisance.

1. The existence of graffiti on any Borough-owned property, or without the permission of the owner or occupant, or on any non-Borough-owned property within the unincorporated areas of the Borough is expressly declared to be a public nuisance.
2. The Borough Council of the Borough of Stroudsburg hereby declares and finds graffiti to be a nuisance subject to abatement according to the provisions and procedures herein contained.
3. It is the duty of both the owner of the property which the graffiti has been applied, and any person who may be in possession or who has the right to possess such property, to at all times keep such property clear and free of graffiti.

(Ord. 763, 5/6/1998, §504)

§505. Removal of Graffiti by Perpetrator.

Any person applying graffiti on property within the Borough shall have the duty to remove same within 24 hours after notice by the Borough or private owner of the property involved. Such removal shall be done in a manner prescribed by the Borough, as authorized by the Borough Council, and may be deemed by the Borough to satisfy any payment or penalty that might otherwise be imposed. Any person applying graffiti shall be responsible for such removal or for the payment therefor. Failure of any person to so remove graffiti or pay for its removal shall constitute an additional violation of this Part. Where graffiti is applied by an unemancipated minor, the parent(s) or legal guardian(s) shall also be responsible for such removal or for the payment therefor. Such payments shall be in addition to any other penalties imposed.

(Ord. 763, 5/6/1998, §505)

§506. Removal by the Owner, the Occupant or the Borough.

Graffiti may be removed by any of the following methods:

- A. It is unlawful for any person who is the owner, or who has primary responsibility for control of property or who has primary responsibility for repair or maintenance of property in the Borough, hereinafter referred to in this section as the "responsible party," to permit said property which is defaced with graffiti to remain so defaced for a period of 10 days after service by first-class mail of notice of same, unless (1) said person shall demonstrate by a preponderance of the evidence that he or she does not have the financial ability to remove the defacing graffiti, or (2) it can be demonstrated by the responsible party that the responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of 15 days after service by first-class mail of notice of same.
- B. Right of Borough to Remove.
 - (1) Whenever the Borough becomes aware or is notified and determines that graffiti is located on Borough-owned property or non-Borough-owned property within the Borough, that is viewable by persons utilizing any public right of way in the Borough, the Borough shall secure the consent of the property owner and the Borough shall be authorized to use public funds to provide for the painting or repairing of same, but shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located, unless the Borough, as authorized by the Borough Council, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid aesthetic disfigurement to the

HEALTH AND SAFETY

neighborhood or community, or unless the responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

- (2) Right of Entry on Private Property. Prior to entering upon private property or property owned by a public entity other than the Borough, for purposes of removal of graffiti, the Borough shall secure the consent of the responsible party, and a release of the Borough from any liability.
- C. If a responsible party fails to remove the offending graffiti within the time herein specified, or if the Borough shall have requested consent to remove or paint over the offending graffiti and the responsible party has refused to grant consent for entry on terms acceptable to the Borough consistent with the terms of this section, the Borough may commence abatement and cost recovery proceedings for the removal of the graffiti pursuant to the provisions of this Part, which procedures authorize the recovery of all costs incurred by the Borough in abating graffiti including the recordation of a lien as to the affected property. Notwithstanding the foregoing, owner-occupied single-family residences are excluded from such cost recovery proceedings including the recordation of a lien on the property.
- (1) Whenever the Borough, as authorized by the Borough Council, determines that graffiti has been applied to non-Borough-owned property within the Borough and that it is in the interest of the Borough to remove such graffiti through the use of Borough resources, then the Borough, as authorized by the Borough Council, may use Borough resources to remove the graffiti, provided that the Borough obtains the consent of the private property owner and release of the Borough from liability.
 - (2) Whenever the Borough, as authorized by the Borough Council, determines that graffiti is being maintained upon any non-Borough-owned property within the Borough in violation of this Part, the Borough, as authorized by the Borough Council, may issue a written notice and order to abate the graffiti. The notice shall be issued to the owner of the property and shall inform the owner that the owner is maintaining graffiti which constitutes a public nuisance and that maintenance of the graffiti is a violation of this Part. The notice shall state that the graffiti must be removed within 10 days from the date of the notice and that if the graffiti is not removed within that time, then the Borough proposes to remove the graffiti and the cost of such removal, if not paid by the owner, shall be made a lien upon the property. Notwithstanding the foregoing, a notice of graffiti nuisance shall not be issued to the owner of a single-family residence which is owner occupied.

The notice shall also inform the property owner that if the graffiti is not removed within the specified ten-day period, then a hearing shall

be held before the Borough Codes Hearing Board to hear any protest of the property owner. The notice shall specify the time and place at which the Borough Codes Hearing Board shall hold such hearing. Such hearing shall be scheduled not less than 10 days after the date of the notice.

- (3) The notice issued pursuant to Subsection C(2) above shall be addressed to the owner of the property as shown on the latest tax assessment roll at the owner's last known address and shall be delivered by depositing a copy of the notice in the United States mail, postage paid, or personally delivering a copy of the notice to the owner. Notice shall also be posted in a conspicuous place on the subject property. No such notice shall be either mailed to or posted on an owner-occupied single-family residence. The failure of any person to receive notice shall not affect the validity of any proceeding under this Part.
- (4) Before any abatement of any graffiti, the Borough Codes Hearing Board, as authorized by the Borough Council, shall hold a hearing regarding the proposed abatement to determine whether the graffiti constitutes a public nuisance and whether abatement is appropriate. The Borough Codes Hearing Board shall receive and consider all relevant evidence presented at the hearing. Any interested person shall be given an opportunity to be heard.
- (5) The Borough Codes Hearing Board shall provide notice of their decision and shall provide an order to abate the graffiti, if appropriate, to the owner of the subject property as shown in the latest tax assessment.
- (6) The Borough Codes Hearing Board may order that the Borough abate any graffiti that has been determined to be a public nuisance and that remains unabated at least seven days after the Hearing Board gives notice of their decision and issues an order to abate.
- (7) The Borough shall keep an account of the costs, including incidental expenses, of abating such graffiti on each separate property where the work is done and shall render an itemized report in writing to the Council showing the cost of abatement of the graffiti. The term incidental expenses shall include but is not limited to the actual expenses and costs of the Borough in the preparation of notices, title searches, specifications and contracts, inspection of the work, the cost of posting and mailing required under this Part, any attorney's fees expended in the abatement of the nuisance, all costs and expenses for which the Borough may be liable under state law arising from or related to the nuisance abatement action, and all costs or expenses to which the Borough may be entitled under state law. Costs and expenses for which the Borough may be reimbursed begin to accrue at the time the Borough first receives a complaint regarding the graffiti. Costs and

HEALTH AND SAFETY

expenses may be recovered once it has become necessary for the Borough to conduct an abatement hearing. Notwithstanding the foregoing, costs and expenses of abatement may not be recovered from owners of single-family residences that are owner-occupied.

- (8) If the total cost of the abatement of the graffiti by the Borough is not paid to the Borough within 10 days after the date of the notice of the cost of the abatement, the Borough shall record, in the office of the County Recorder, a statement of the total balance due to the Borough, a legal description of the property, and the name of the owner concerned. From the date of such recording, the balance due will constitute a lien on the property. The lien will continue in full force and effect until the entire amount due, together with interest as the maximum legal rate accruing from the date of the completion of the abatement, is paid in full. Notwithstanding the foregoing, no lien shall be placed on a single-family residence which is owner-occupied.
- (9) The Borough may bring appropriate actions, in a court of competent jurisdiction, to collect any amounts due by reason of the abatement of graffiti by the Borough and to foreclose any existing liens for such amounts. Notwithstanding the provisions of this Part, the Borough may bring the appropriate civil and criminal action in a court of competent jurisdiction for abatement of any nuisance within the Borough pursuant to any other provision of the law.

(Ord. 763, 5/6/1998, §506)

§507. Fines and Penalties.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300, together with the cost of prosecution, the cost of removal by the Borough, or to imprisonment for a term not to exceed 30 days. Every day that a violation of the Part continues shall constitute a separate offense.

(Ord. 763, 5/6/1998, §507)