

**Chapter 70**  
**NUISANCE PROPERTIES**

**§ 70-1. Definitions.**

**§ 70-2. Enumerated infractions.**

**§ 70-3. Procedure.**

**§ 70-4. Costs charged to owner.**

**§ 70-5. Appeal.**

**§ 70-6. Exceptions.**

**§ 70-7. Violations and penalties; additional remedies.**

**§ 70-8. Duty to file with Department of Community Affairs.**

[Added 1-20-2009 by Ord. No. 571]

**GENERAL REFERENCES**

**Property maintenance — See Ch. 86**

**Residential rental operating license — See Ch. 91.**

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**§ 70-1. Definitions.**

**AUTHORITIES** — The Mayor of the Borough of Heidelberg and/or his designee(s), the Chief of Police, the Borough Manager or any authorized Building Inspector and/or Code Enforcement Officer employed by the Borough.

**COST OF ABATEMENT** — The reasonable cost of abatement of an enumerated infraction as calculated by the Borough Manager including, but not limited to, the cost of police and/or inspector response associated with abating an enumerated infraction.

**COST SCHEDULE** — The complete list of costs associated with abating each enumerated infraction.

**NUISANCE PROPERTY** —

- (1) Any residentially zoned property, or commercially zoned property with one or more residential units that generate citations from authorities for any enumerated infraction on three or more separate occasions within any 60-day period.
- (2) Any residentially zoned property with more than three units that:
  - (a) Generates three citations from any one unit from authorities for any enumerated infraction on three or more separate occasions within any 60-day period.
  - (b) Generates five citations from the entire building for any enumerated infraction within any 60-day period.

**PERSON(S) ASSOCIATED WITH** — Any person who, whenever engaged in any enumerated infraction, enters, patronizes, or attempts to enter, patronize, or visit, or waits to enter, patronize, or visit, a property or person present on a property, including any officer, director, customer, agent, employee, or independent contractor of a property owner.

**PROPERTY OWNER** — Any person or business entity, profit or not-for-profit, owning an interest in any property within the boundaries of the Borough of Heidelberg.

**§ 70-2. Enumerated infractions.**

An enumerated infraction, is any of the following activities, behaviors, or conduct, whenever engaged in by the property owner(s), operator(s), tenant(s), occupants(s), their invitee(s) or person(s) associated with the property owner(s), operator(s), tenant(s), occupant(s) or their invitee(s), occurring within the boundary lines of the property, or 100 feet or less outside the boundary lines of the property including, but not limited to:

- A. Violation of Heidelberg Borough Code Chapter 31: Adult Uses.
- B. Violation of Heidelberg Borough Code Chapter 34: Alcoholic Beverages.
- C. Violation of Heidelberg Borough Code Chapter 40: Uniform Construction Code.
- D. Violation of Heidelberg Borough Code Chapter 44: Curfew.
- E. Violation of Heidelberg Borough Code Chapter 47: Dogs and Other Animals.
- F. Violation of Heidelberg Borough Code Chapter 51: Firearms and Weapons.
- G. Violation of Heidelberg Borough Code Chapter 86: Property Maintenance.
- H. Violation of Heidelberg Borough Code Chapter 91: Residential Rental Operating License.
- I. Violation of Heidelberg Borough Code Chapter 107: Abandonment of Vehicles.
- J. Violation of Heidelberg Borough Code Chapter 109: Parking and Repairing of Vehicles.
- K. Under Pennsylvania Law, anything designated a summary offense, a misdemeanor or a felony.

**§ 70-3. Procedure.**

- A. Any enumerated infraction must be reported by the citing authorities to the Borough Manager within 72 hours of its occurrence.
  - (1) The Borough Manager shall notify the property owner by first-class mail to the property owner's last known address or cause to be hand-delivered a notice to the property owner's residence or usual place of business.
  - (2) The notice shall be deemed to be properly delivered if sent either by first-class mail to the property owner's last known address, or if delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the property owner's usual place of abode in the presence of some competent member of the family at least 17 years of age, or a competent adult currently residing there and who shall be informed of the content of the notice. If a current address cannot be located, notice shall be deemed sufficient if posted on the potential nuisance property, and a copy of the notice is sent via first-class mail to the last known address of the property owner.
- B. The Borough Manager is herewith charged with keeping a log of such enumerated infractions. The log shall be maintained for the purpose of recording enumerated infractions from diverse sources who would not otherwise know of other departments' activities related to the subject property.
- C. Whenever the Borough Manager determines that a property has generated a sufficient

number of citations to meet the definition of a nuisance property as set forth in § 70-1 of this Chapter, the Borough Manager shall notify the property owner in writing that the property has been designated as a nuisance property.

- D. The notice identified in subsection .C shall be deemed to be properly delivered if sent either by first-class mail to the property owner's last known address or if delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the property owner's usual place of abode in the presence of some competent member of the family at least 17 years of age, or a competent adult currently residing there and who shall be informed of the content of the notice. If a current address cannot be located, notice shall be deemed sufficient if posted on the potential nuisance property, and a copy of the notice is sent via first-class mail to the last known address of the property owner.
- E. The notice required by subsections .A and .C shall contain:
- (1) The street address or legal description sufficient for identification of the property.
  - (2) A description of the enumerated infraction(s) that have occurred at the property and, if applicable, a statement indicating that the property is declared as a nuisance property as a result of said enumerated infraction(s).
  - (3) Notice of the property owner's right to appeal pursuant to § 70-5.
  - (4) A statement that the property owner shall, within ten days, respond to the Borough Manager, in writing, with either:
    - (a) The intent of the property owner to appeal the finding of the Borough Manager.
    - (b) A proposal detailing a course of action by which enumerated activities will be abated at the property. The Borough Manager shall, within ten days of receipt of said proposal, either approve or disapprove of the proposal. In the event the Borough Manager disapproves a proposal, the property owner may appeal pursuant to § 70-5.
- F. Whenever the Borough Manager determines that an additional enumerated infraction has occurred at a property for which notice has been issued pursuant to subsection .E of this Section, the Borough Manager shall charge the cost of abatement of the enumerated infraction to the property owner pursuant to § 70-4 for this and any subsequent enumerated infraction, exceptions notwithstanding.

**§ 70-4. Costs charged to owner.**

- A. The Borough Manager, with the approval of Borough Council, shall establish a cost schedule for each enumerated infraction which is to be updated yearly and filed in the office of the Borough Manager.
- B. The Borough Manager shall impose upon the owner of a nuisance property the cost of abatement of any enumerated infraction consistent with § 70-2 of this Chapter.
- C. Each subsequent incident of any enumerated infraction shall be deemed a separate violation subject to this penalty provision.

**§ 70-5. Appeal.**

- A. Appeal of the determination of the Borough Manager pursuant to either §§ 70-3(C), 70-3(E)(4)(b) or §70-3(F) may be submitted by the property owner to a special committee of the Council for the Borough of Heidelberg, which special committee shall be appointed by the President of Council and approved by Borough Council.

The special committee shall consist of three residents of the Borough of Heidelberg who shall serve terms of one year, two years and three years, without compensation, and which shall hear such appeals.

- B. The property owner shall have the right to retain counsel for the appeal hearing at the property owner's sole expense. The property owner shall have the right to present evidence and/or testimony at the appeal hearing.
- C. The property owner shall, at the time of the filing of the appeal, deposit with the Borough of Heidelberg the sum of \$500 which shall be used by the Borough of Heidelberg to cover the costs of a stenographic transcript of the hearing. The property owner shall be responsible only for the actual cost of the production of the transcript. The hearing transcript shall be the property of the Borough of Heidelberg and shall be used to provide a record of the evidence presented to the special committee and to be available to a court in the event of a further appeal of the decision of the special committee.
- D. After considering the testimony and evidence provided at the appeal hearing, the special committee shall have the authority to decide the validity of the determination of the Borough Manager. The decision of the special committee shall be in writing and filed within 30 days of the conclusion of the hearing or the last day set by the special committee for the filing of any legal briefs or granted extensions.

**§ 70-6. Exceptions.**

- A. In the event any property owner, after implementation of a § 70-3(E)(4)(b) plan, demonstrates that the authorities have not responded to an enumerated infraction at the nuisance property for at least a period of six months, that property shall no longer be considered a nuisance property, until such time that the criteria of § 70-3(C) are again satisfied.
- B. Any citation issued to a tenant who is already in the process of being evicted shall not count towards the number of citations necessary to be deemed a "nuisance property" if the property owner can prove that an eviction action has been commenced in a court of law and if the property owner is actively prosecuting said eviction action against the tenant.

**§ 70-7. Violations and penalties; additional remedies.**

Any person who violates any of the provisions of this Chapter shall be subject to the immediate revocation of his rental operating license and, upon conviction in a summary proceeding, be fined not less than \$300, and, in default of the payment of the fine and costs, each day on which a rental unit is operated without a valid rental operating license shall constitute a separate offense. Nothing contained herein shall be deemed to preclude the Borough to seek other relief or avail itself of any remedy that may be at law or in equity to prosecute past violations or to

prevent continuing violations of the terms of this Chapter.

**§ 70-8. Duty to file with Department of Community Affairs.**

The Borough Manager shall file an exact copy of this Chapter with the Department of Community Affairs together with the name, position and phone number of the building inspector responsible for compliance with this Chapter.

