

# **BOROUGH OF JERMYN PROPERTY MAINTENANCE CODE**

## **PART 1: GENERAL**

### **SECTION 1: DEFINITIONS**

“Borough” – The Borough of Jermyn, Pennsylvania.

The “Code” – Shall refer to the Borough of Jermyn Property Maintenance Code.

“Code Official” – The official who is charged with the administration and enforcement of the Code, or any duly authorized representative of the Code Official. The Code Official, or any duly authorized representative, shall have all authority necessary to enforce the provisions of this Code, including institution of summary citation proceedings.

“Exterior Property Areas” – The open space on the premises and on adjoining property under the control of owners or operators of such premises.

“Garbage” – The animal and vegetable waste resulting from the handling, preparation, cooking, and/or consumption of food.

“Infestation” – The presence within or contiguous to a structure or premises of insects, rats, vermin or other pests.

“Junk” - Discarded material or article including, but not limited to, scrap metal, scrapped, abandoned or junked machinery; and paper or glass waste. Junk shall not include refuse or garbage kept in a proper container for the purpose of prompt disposal.

“Motor Vehicle Nuisance” – A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

- A. Broken windshields, mirrors or other glass with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hoods, trucks, or other body parts which could permit animal harborage.
- D. Any motor vehicle body parts with sharp edges including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken headlamps or tail lamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frames suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.

- M. Inoperable locking mechanism for doors or trunks.
- N. Open or damaged floor boards including trunk and fire wall.
- O. Damaged bumpers pulled away from the perimeter of the vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips, broken communications equipment or antenna.
- R. Suspended on unstable supports.
- S. Such other defects which could threaten the health, safety, and welfare of the citizens of the Borough.

“Operator” – Any person who has charge, care and/or control of a structure or premises which is let or offered for occupancy.

“Owner” – Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official record of the county as holding title to the property; or otherwise having control of the property, including the guardian of 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.

“Person” – An individual, corporation, partnership, or any other group acting as a unit.

“Public Nuisance” – Includes the following:

- A. The physical condition or use of any premises regarded as a public nuisance at common law.
- B. Any physical condition, use or occupancy of any premises appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures.
- C. Any premises which has unsanitary sewage or plumbing facilities.
- D. Any premises designated as unsafe for human habitation or use.
- E. Any premises which is manifestly capable of being a fire hazard or are manifestly unsafe or unsecure as to endanger life, limb, or property.
- F. Any premises from which the plumbing, heating, and/or facilities required by this code have been removed or from which utilities have been disconnected, destroyed or rendered ineffective or the required precautions against trespassers have not been provided.
- G. Any premises which is unsanitary or which is littered with rubbish or garbage or which has an uncontrolled growth of weeds.
- H. Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure, and dangerous to anyone on or near the premises.

“Rubbish” – Combustible and noncombustible waste materials except garbage, and the term shall include the residue from burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and other similar materials.

“Structure” – That which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

**SECTION 2: DUTIES AND POWERS OF CODE OFFICIAL**

- A. General: The Code Official shall enforce all provisions of this Code.
- B. Notices and Orders: The Code Official shall issue all necessary notices and orders to abate illegal or unsafe conditions to ensure compliance with the Code’s requirements for the safety, health and general welfare of the public.
- C. Inspections: In order to safeguard the safety, health and general welfare of the public, the Code Official is authorized to enter any structure, premises or exterior property area, subject to constitutional standards, at any reasonable time for the purpose of making inspections and performing duties under this Code.
- D. Right of Entry: If any owner, occupant or other person in charge of a structure, premises or exterior property area subject to this provisions of this Code refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where an inspection authorized by this chapter is sought, the administrative authority shall be permitted to seek, in a court of competent jurisdiction an order that such owner, occupant or other person in charge shall cease and desist with such interference.
- E. Access by Owner or Operator: Every occupant of a structure, premises or exterior property area shall give the owner or operator thereof, or agent or employee, access to any part of such structure, premises, or exterior property area, at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provision of this Code.
- F. Notice to Owner or to Persons Responsible: Whenever the Code Official determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred notice shall be given to the owner or the person or persons responsible therefore in the manner described below.
- G. Manner of Notice: The notice provided by the Code Official shall be in writing, include a description of the real estate sufficient for identification, include a statement of the reason or reasons why it is being issued, include a correction order allowing a reasonable time for the repairs and improvements required to bring the structure, premises, or exterior property area into compliance with the provisions of this Code.
- H. Service of Notice: The notice described above shall be served upon the Owner, Operator, Occupant or other person in charge. Notice is deemed properly served if it is delivered

personally, sent by certified mail or first class mail addressed to the last known address of the Person, or if the notice is returned showing that it was not delivered, a copy thereof shall be posted in a conspicuous place on the premises affected by such notice.

**SECTION 3: FEE SCHEDULE**

The following fee schedule shall be applicable to be charged against the Owner or Owners of the property who are found to be in violation of the provisions of the Borough of Jermyn Property Maintenance Code by the Code Official:

- a. Initial inspection and IF violation notice is sent: \$ 50.00
- b. Second and Subsequent Re-Inspections and/or Reports/Notices if performed: \$100.00
- c. Legal Expense of Borough if non-compliance requires involvement of the Borough Solicitor: \$75.00/hour, plus court costs.
- d. All administrative expenses, mileage charges incurred by the Borough of Jermyn, secretarial expenses, postage and printing expenses, administrative expenses and inspection materials and services, including but not limited to test kits and barrier tape: Actual Costs

Payment of all the above fees shall be due to the Borough within thirty (30) days of the date of the delivery if the invoice to the responsible party or parties, and if not paid within (30) days, the party or parties shall pay to the Borough interest from the due date to the date paid at a legal rate allowable under the law. The party or parties who are subject to the violation notice could be subject to additional charges for fines, penalties, attorney’s fees and other costs if legal action is required before the Magisterial District Judge or the Court of Common Pleas of Lackawanna County to correct the violation of this code. Any fees payable to the Code Official under this Code shall be payable by the Code Official as soon as possible to the Borough treasurer for the use of the Borough.

**PART 2: MAINTENANCE OF EXTERIOR PROPERTY AREAS; MAINTENANCE OF LAWN, GRASS, SHRUB, AND VEGETATION; SNOW AND ICE REMOVAL; AND STORAGE OF “JUNK.”**

**SECTION 1(A): Maintenance of Exterior Property Areas.**

- A. Sanitation: All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition, free from any accumulation or rubbish or garbage.
- B. Containers: The operator of every establishment producing garbage, vegetable waste or other putrescible material shall provide, and at all times cause to be used, leak proof

approved containers provided with the close fitting covers for the storage of such materials until removed from the premises for disposal.

- C. Grading and drainage: All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or with any structure located thereon. Stagnant water shall be determined as any accumulation that has not disbursed within seven days of the last recorded rainfall. Exception: Water retention areas and/or reservoirs approved by the code official.
- D. Insect, Rat and Pest Control: An owner of a structure or property shall be responsible for the extermination of insects, rats, vermin or other pests in all exterior areas of the premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.
- E. Weeds: All lots shall be maintained free from weeds or plant growth in excess of seven inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plant, and vegetation other than trees or shrubs, provided, however, that this term shall not include cultivated flowers and gardens.
- F. Public Nuisance: All exterior property areas and premises shall be maintained in such a manner so as not to constitute a public nuisance.
- G. Motor vehicles in residential areas: Not more than one currently unregistered and/or uninspected motor vehicle shall be parked on any property in a residential district, and said vehicle shall not at any time be in a state of disassembly, disrepair, nor shall it be in the processes of being stripped or dismantled. A vehicle of any type shall not at any time undergo major overhaul including body work, in a residential district unless said work is performed inside a structure or similarly enclosed area designed and approved for such purposes. In addition, not more than one currently unregistered and/or uninspected motor vehicle shall be parked on any property in a residential district if such motor vehicle constitutes a motor vehicle.

**SECTION 1(B): Violations and Penalties**

- A. Unlawful Acts: It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure, premises, or exterior property area, or cause the same to be done, contrary to or in conflict with or in violation of any of the provisions of this Section of the Code.
- B. Penalty: Any person, firm, or corporation which shall violate or fail, neglect, or refuse to comply with any of the provisions of this Section of the Code, shall, upon conviction of a summary offense by a Magisterial District Judge be fined not more than \$300.00 for each offense, shall be ordered to pay the Borough any costs incurred by the Borough as provided above, together with the costs of this action, and in default of payment thereof,

be committed to the County Prison for a period not exceeding thirty (30) days. Each day of a violation shall be considered separate violations and offenses.

- C. Borough Permitted to Perform Work: If the tenant, occupant, or owner of the exterior property area permits or causes said property to be maintained in violation of this Code, the Borough may, after providing said tenant, occupant, or owner twenty (20) days prior written notice, correct the matter giving rise to the violation at the Borough expense and may thereafter collect all costs and expenses, plus 10% incurred in connection with correcting the violation by filing a municipal claim or by an action of assumpsit.

**SECTION 2:           Maintenance of Lawn, Grass, Weeds, Vegetation, Snow and Ice Removal, and Storage of “Junk.”**

**SECTION 2(A):       Lawn, Grass, Weeds, and Vegetation Maintenance.**

- A. Any person firm or corporation, owning any property within the Borough, shall as provided in this Code, trim or cut all grass or weeds or other vegetation whatsoever, not planted or used for some agricultural or ornamental purpose. No such person, firm, or corporation shall permit to grow upon property owned by it any grass, weeds, or other vegetation which does emit any unpleasant or noxious odor or which does conceal any filthy deposit. Any grass, weeds or other vegetation growing upon any premises in the Borough on 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.
- B. The Owner of a property shall remove, trim, or cut to height of seven inches or less, all grass, weeds, or other vegetation growing or remaining upon such premises in violation of the provisions of this Code. This provision shall not include cultivated flowers and gardens.
- C. The Code Official is hereby authorized to give notice to the owner of any premises whereon grass, weeds, or other vegetation is growing or remaining in violation of the provisions of this Code, directing and requiring such owner to remove, trim or cut such grass, weeds or vegetation, so as to conform to the requirements of this Code, within five (5) days after the issuance of such notice. 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 authorities may remove, trim or cut such grass, weeds or vegetation, and the cost thereof, together with any additional penalty authorized by the Law, may be collected by the Borough from such person, firm or corporation, in the manner provided by law.

**SECTION 2(B):       Snow and Ice Removal.**

Any person, firm, or corporation owning any property within the Borough shall remove all accumulation of snow or ice from the sidewalk within 24 hours after the ceasing of the

snowfall or ice storm, or the formation of ice. No person, firm or corporation shall deposit or cause to be deposited any snow, ice, hail, or sleet upon any plowed portion of a Borough Street or road. The Code Official is hereby authorized to give notice to the owner of any premises informing the owner that the owner is in violation of the provisions of this Section, and ordering said owner to immediately comply with such notice, the Borough authorities may clear the premises of all snow or ice, and the cost thereof, together with any additional penalty authorized by the Law, may be collected by the Borough from such person, firm or corporation, in the manner provided by Law.

**SECTION 2(C): Prohibition Against Storage of “Junk.”**

- A. No person, firm, or corporation owning any property within the Borough shall permit the accumulation or storage of any junk on said property. For the purpose of this Code, the term “junk” shall include any discarded material or article including, but not limited to, scrap metal, scrapped, abandoned or junked machinery; and paper or glass waste. Junk shall not include refuse or garbage kept in a proper container for the purpose of prompt disposal.
- B. No person, firm, or corporation owning any property within the Borough shall permit the outside storage or deposit of any motor vehicle, recreational vehicle, or parts thereof, not displaying a valid current registration issued by the Commonwealth of Pennsylvania Bureau of Motor Vehicles, Department of Transportation. The definition of “motor vehicle” set forth in the Pennsylvania Motor Vehicle Code (75 Pa.C.S. 101 et seq.) is incorporated by reference herein and made a part hereof. Provided, however, that this section 3 shall not apply to the storage of motor vehicles, recreation vehicles, or parts thereof, by licensed auto dealers nor the storage of motor vehicles, recreation vehicles, or parts thereof within a fully enclosed garage or other building.

**SECTION 2(D): Violations and Penalties.**

Any person, firm, or corporation which shall violate or fail, neglect, or refuse to comply with any of the provisions of this Section of the Code, shall, upon conviction of a summary offense by a District Justice be fined not more than \$300.00 for each offense, shall be ordered to pay the Borough any costs incurred by the Borough as provided above, together with the costs of this action, and in default of payment thereof, be committed to the County Prison for a period not exceeding thirty (30) days. Each day of a violation shall be considered separate violations and offenses.

**PART 3: VACATING, REMOVAL, REPAIR OR DEMOLITION OF ANY STRUCTURES DANEROUS TO THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE BOROUGH; AND SETTING FORTH THE PROCEDURES AND RULES FOR DETERMINING DANGEROUS STRUCTURES.**

**SECTION 1: APPLICATION**

This Code shall apply uniformly to all persons, business organizations, non-profit organizations, and all other legal entities; and It shall apply uniformly to all property and all property owners within the borough.

**SECTION 2: DEFINITIONS AND WORD USAGE**

- A. Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Code its most reasonable application consistent with its intent.
- B. The word “shall” is always mandatory and not merely directory.
- C. The word “Council” shall mean the existing elected or appointed members of Borough Council.
- D. The word “Borough” shall mean the Borough of Jermyn.
- E. The words “dangerous buildings” shall mean all the buildings or structures which have any or all of the following defects; and all such buildings or structures shall be deemed “dangerous buildings” as:
  - 1. Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation.
  - 2. Those which have been damaged by fire, wind or other cause so as to have become dangerous to the life and safety, morals, or the general health and welfare of the occupant or the people of the Borough.
  - 3. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which otherwise so utterly fail to provide the amenities essential to decent living so that they are unfit for human habitation.
  - 4. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which otherwise utterly fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein as well as other citizens of the Borough.
  - 5. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property.
  - 6. Those which because of their general condition are unsafe, unsanitary or dangerous to the health, morals, safety, or general welfare of the people of the Borough.

- F. Words used in the present text include the future and past, words in the plural number include the singular, words in the singular number include words in the plural and words whether in the feminine, masculine or neuter shall include words of the other two genders.

**SECTION 3: DANGEROUS BUILDINGS AND NUISANCES**

- A. All “dangerous buildings” are hereby declared to be public nuisances and shall be repaired, vacated and/or demolished.
- B. Each day a nuisance in the form of a dangerous building continues after notice is given that said dangerous building is to be repaired, vacated and/or demolished, shall constitute a separate offense in violation of this Code.

**SECTION 4: INVESTIGATION PROCEDURE**

Whenever it is reported or comes to the attention of any persons, citizens, Borough officials, or police officer that any building or structure completed or in the process of construction or any portion thereof is in a dangerous condition, such persons shall report the same to the Borough Council or the Mayor. If reported to the Mayor, then the Mayor shall notify Borough Council.

The Borough Council shall then have the designated Code Official conduct an investigation and examine the building or structure reported. If the Code Official conducting the investigation believes that the structure is a dangerous building, then a written report of the investigation specifying the condition of the structure and in what respect it is dangerous shall be made and presented to Borough Council. The report may recommend whether the building can be repaired or whether it shall be removed as a dangerous building.

**SECTION 5: HEARING PROCEDURE**

The Council of the Borough shall:

- A. Upon report in accordance with the investigation procedure proved hereinabove in Section 4 of this part of the Code, give written notice to the owner or owners of such dangerous buildings as determined by the records in the County assessment and Recorder of Deeds offices in and for the County, in the Commonwealth of Pennsylvania, or failing to find any owner or owners, then notice shall be given to the occupant, mortgagee, lessee, agent, or any other person found with an interest in said dangerous building as the Borough may discover, and said notice shall inform the owner or other party to appear before the Council on a date specified to show cause why the building or structure reported as a dangerous building should not be repaired, demolished or vacated in accordance with any written report to Council or determination made by council.

- B. Within not less than ten (10) days nor more than sixty (60) days from the date of such notice hold a hearing and hear such testimony as the owner, occupant, mortgagee, lessee or other person having an interest in said building shall offer related to the dangerous building.
- C. Within thirty (30) days of such hearing, make written findings of fact from the testimony offered pursuant to the hearing as to whether or not the building in question is a dangerous building.
- D. Within not more than thirty (30) days following the hearing provided for by subsection B hereof, issue an Order, based upon findings of fact made pursuant to subsection C hereof, demanding the owner of said building to repair, demolish or vacate any building found to be a dangerous building.

**SECTION 6: STANDARDS FOR REPAIR, VACATION, OR DEMOLITION**

The following standards shall be followed in substance by the Council in ordering repair, vacation, or demolition of any dangerous building.

- A. If the dangerous building can be repaired as determined by the Council so that it will no longer exist in violation of the terms of this Code, it shall be Ordered repaired.
- B. IF the dangerous building is in such condition as to make it dangerous to health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.
- C. If the dangerous building cannot be reasonably repaired as determined by the Council, it shall be demolished.
- D. If the dangerous building is a fire hazard or is existing or erected in violation of the terms of this Code, any other Code of the Borough, or any statute of the Commonwealth of Pennsylvania, it shall be demolished.

**SECTION 7: ENFORCEMENT PROCEDURES**

- A. If any structure is deemed to be a dangerous building within the standard of this Code after the hearing, then Council within the time set forth in section 5 of this Code shall cause notice of this Order issued under section 5 of this Code to be served upon the owner or owners of such dangerous buildings as determined by the records previously or who appeared at the hearing, or to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous building who can be located.
- B. The notice and order required by this section shall be served personally upon the owner or owners of a dangerous building if such owner resides, or such owners,

reside in the Borough or personally upon his agent if such agent resides within the Borough. If personal service required herein cannot be obtained, such notice shall be sent to the owner or owners of a dangerous building by certified mail at the last known address according to the records available in the Tax Assessment Office in and for the County in the Commonwealth of Pennsylvania.

- C. The notice and order shall identify the building or structure deemed dangerous, contain a statement of the particulars which made this building or structure a dangerous building and include an order requiring the same to be put in such condition as to conform with the terms of this Code, provided further in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure in lieu of making the repairs thereto within the time period provided.
- D. The notice and order shall require any person notified to repair, vacate, or demolish any building to commence the work or act required by the notice, within ten (10) days of such notice and to comply with such repair, vacation, or demolition within sixty (60) days from the receipt of such notice.

#### **SECTION 8: PENALTIES**

- A. Any owner, occupant, or lessee, who is in possession of any dangerous building who shall fail to comply with any notice or order to repair, vacate, or demolish any dangerous building issued under Part 3 of this Code or who violates any other provisions of Part 3 of this Code, shall, upon conviction of a summary offense by a Magisterial District Judge be fined not more than \$300.00 for each offense, shall be ordered to pay the Borough any costs incurred by the Borough as provided above, together with the costs of this action, and in default of payment thereof, be committed to the County Prison for a period not exceeding thirty (30) days. Each day of a violation shall be considered separate violations and offenses.
- B. Any person having an interest in any building who fails to comply with any notice or order to repair, vacate, or demolish any dangerous building within ninety (90) days of the receipt of such notice, by such failure does empower the Council to cause such building or structure to be repaired, vacated or demolished by the Borough and to cause the costs of such repair, vacation or demolition together with a penalty of ten (10%) percent to be charged upon the land upon which the building exists as a municipal lien, or alternatively to recover such costs and penalty in a suit at law against the owner or owners but failing to recover same to have the judgment therefore to be charged upon the land as a lien, and, this subsection is separate from in addition to the fine, penalty and costs which may be imposed by any other subsection of this section.

#### **SECTION 9: EMERGENCY CASES**

In cases where it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a dangerous building, the Council shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation, or demolition of such dangerous building shall be collected as provided for in section 8B of this Code.

**PART 4: SEVERABILITY AND AMENDMENT**

**SECTION 1: SEVERABILITY**

If any section, clause, provision, or portion of this ordinance or the Code shall be held invalid or unenforceable by any court of competent jurisdiction, then such decision shall not affect any other section, clause, provision, or portion of this ordinance or the Code so long as it remains legally enforceable without the invalid portion(s).

**SECTION 2: AMENDMENT**

The Borough Council reserves the right to amend this Code, or any portions thereof, from time to time as it shall deem necessary to further the purposes of this Code and the effective administration thereof. Any such amendments shall be made in accordance with the requirements of the Pennsylvania Borough Code, 8 Pa.C.S.A. § 101 et seq.