

CODIFIED ORDINANCES OF WHITE OAK
PART SEVEN - GENERAL OFFENSES CODE

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CODIFIED ORDINANCES OF WHITE OAK
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ARTICLE 705
Animals

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| 705.01 Animals running at large. | 705.04 Cruelty to animals. |
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CROSS REFERENCES

- Power to prohibit keeping of hogs - see Borough Code Sec. 1202(12) (53 P.S. Sec. 46202(12))
- Power to prohibit running at large of dogs, cats, other pets; killing seizure detention and sale - see Borough Code Sec. 1202(13) (53 P.S. Sec. 46202(12))
- Power to prohibit running at large of livestock, fowls and certain other animals - see Borough Code Sec. 1202(14) (53 P.S. Sec. 46202(14))
- Power to prohibit or regulate riding or driving animals on sidewalks - see Borough Code Sec. 1202(18) (53 P.S. Sec. 46202(18))
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705.01 ANIMALS RUNNING AT LARGE.

No person shall permit his horse, mare, gelding, mule, hog, cow, goat, or any other animal or fowl to run at large within this Borough. (Ord. 8. Passed 7-19-48.)

705.02 DOGS.

(a) Definitions. As used in this section, the following terms have the meanings indicated unless a different meaning clearly appears within the context:

- (1) "Owner" means any person having a right of property in any dog or having any custody of any such animal, or any person who harbors or permits such animal to remain in or on his or her property.
- (2) "Running at large" means being upon any public highway, street, alley, park, or any other public land, or upon property of another person other than the owner, and not being accompanied by or under the control of the owner or any other person having custody of the dog.

(b) Running at Large Prohibited. It shall be unlawful for the owner of any dog or dogs to permit such dog or dogs to run at large in the Borough of White Oak.

(c) Seizing of Dogs Found at Large. Any police officer or animal control officer or agent of the Borough of white Oak may seize any dog found at large in the Borough.

(d) Licensed Dogs. Owners of licensed dogs are to be notified by registered or certified mail, with return receipt, that the dog is impounded and will be disposed of in five days if not claimed. Five days after the return receipt has been received, if the dog has not been claimed, the dog may be sold or destroyed in accordance with the 1982 Dog Law.

(e) Unlicensed Dogs. Unlicensed dogs that are seized are to be held in such kennel for forty-eight hours and, if not claimed, may be destroyed in accordance with the 1982 Dog Law.

(f) Defecation on Public and Private Property Restricted. No person having possession, custody or control of any dog or dogs shall knowingly or negligently permit any dog to commit any nuisance, i.e., defecation or urination, upon any gutter, street, driveway, alley, curb or sidewalk in the Borough of White Oak, or upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon the outside walls, walkways, driveways, alleys, curbs or stairways of any building abutting on a public street or park, or upon the grounds of any public park or public area, or upon any private property other than the property of the owner of such dog or dogs.

(g) Disposal of Dog Feces. Any owner or person having possession, custody or control of any dog or dogs, or other animal, which commits a nuisance, i.e., defecation or urination in any area other than the private property of the owner of such dog or dogs as prohibited in subsection (f) hereof shall be immediately required to remove any feces from such surface area:

- (1) To carry the same away for disposal in a toilet; or
- (2) To place the same in a nonleaking container for deposit in a trash or litter receptacle.

(h) Dogs Accompanying Blind or Handicapped Persons Exempted. The provisions of subsections (f) and (g) hereof shall not apply to a guide dog accompanying any blind person or to a dog used to assist any other physically handicapped person.

(i) Violations and Penalties. The first two times a dog is seized, his owner shall pay a fine of fifteen dollars (\$15.00) to the Borough of White Oak, as well as reasonable fees for keeping the animal in a kennel. Any person allowing an animal to run at large a third time in violation of this section or any person, firm or corporation who shall violate any of the other provisions of this section shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and/or to imprisonment for a term not to exceed ninety days. (Ord. 2855. Passed 3-14-90.)

705.03 BARKING DOGS.

(a) Unlawful to Keep Dogs Disturbing the Peace. It shall be unlawful to own, harbor or keep in custody and dog, which disturbs the peace of barking, howling or making loud noises to the annoyance and discomfort of any person in the Borough of White Oak. Continuous barking, howling or the making of other loud noises by any dog for more than any one hour or continuous barking for periods of less than one but more than one-half hour, which periods occur on two or more consecutive days, shall be deemed to be a disturbance of the peace and a cause of annoyance and discomfort to persons in the Borough of White Oak.

(b) Notice of Warning; Determination of Violation.

- (1) Any person may request in writing the Borough Police Department to warn any person who shall own, harbor or keep in custody any dog which disturbs the peace by barking, howling or making other loud noises to the annoyance and discomfort of persons in the Borough of White Oak.
- (2) A warning by the police shall consist of delivery of a copy of this Ordinance and a notice to the resident in the Borough of White Oak of any such owner, keeper or custodian in person or by registered mail.
- (3) Any such notice shall be in writing and shall identify and specify the residence of the owner, keeper or custodian of the dog or other animal.
- (4) A violation of this Ordinance shall be deemed to have occurred upon a second or subsequent violation of subsection (a) above after the date of delivery of the written warning when the second one-hour disturbance or the second two one-half hour disturbances take place within thirty days of the delivery of the written notice.

(c) Violations and Penalties. Any person violating any provision of this section shall, upon conviction thereof, be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than six hundred dollars (\$600.00), plus costs of prosecution, or to imprisonment in the county jail for not more than thirty days, or both. Each day's continuance of violation shall constitute a separate offense. (Ord. 3221. Passed 7-16-01.)

705.04 CRUELTY TO ANIMALS.

(a) Killing, Maiming or Poisoning Domestic Animals or Zoo Animals, etc.

- (1) A person commits a misdemeanor of the second degree if he willingly and maliciously:
 - A. Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.
 - B. Administer poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.
 - C. Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than five hundred dollars (\$500.00).

- (2) A person commits a felony of the third degree if he willfully and maliciously:
 - A. Kills, maims or disfigures any zoo animal in captivity.
 - B. Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.
- (2.1) A. A person commits a misdemeanor of the third degree if he willfully and maliciously:
 1. Kills, maims, mutilates, tortures or disfigures any dog or cat whether belonging to himself or otherwise.
 2. Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

- B. Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than one thousand dollars (\$1,000) or to imprisonment for not more than two (2) years, or both. The Court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.
- (3) This subsection shall not apply to:
- A. The killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;
 - B. The killing of any animal or fowl pursuant to the Act of June 3, 1937, (P.L. 1225, No. 3126), known as The Game Law, or 34 Pa. C. S. §2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder, or
 - C. Such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating Certain Actions Concerning Fowl or Rabbits. A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one (1) month of age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be constructed to prohibit the sale or display of such baby chickens, ducklings or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to Animals. A person commits a summary offense if he wantonly or cruelly ill-treats, overloads, beats, otherwise abuses any animal or neglects any animal as to which he has a duty to care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body hair and keep it dry. This subsection shall not apply to activity undertaken in normal agricultural operations.

(d) Selling or Using Disabled Horse. A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting Animals in Cruel Manner. A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefore.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than fifteen pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting Equine Animals in a Cruel Manner. Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or cause or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two (2) or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of Labor of Animals. A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than fifteen (15) hours in any twenty-four (24) hour period, or more than ninety (90) hours in any one week.

(g) Cruelty to Cow to Enhance Appearance of Udder. A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period for twenty-four (24) hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device which prevents its calf, if less than six (6) weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of twenty-four (24) hours.

(h) Cropping Ears of Dog; Prima Facie Evidence of Violation. A person commits summary offense if he crops or cuts off, or causes or procures to be cropped or cut off, the whole, or part of the ear or ears of a dog or shows or exhibits or procures the showing or exhibition of any dog whose ear is or ears are cropped or cut off, in whole or in part, unless the person showing such dog has in his possession either a certificate of veterinarian stating that such cropping was done by the veterinarian or a certificate of registration from a county treasurer, showing that such dog was cut or cropped before this section become effective.

The provisions of this section shall not prevent a veterinarian from cutting or cropping the whole or part of the ear or ears of a dog when such dog is anesthetized, and shall not prevent any person from causing or procuring such cutting or cropping of a dog's ear or ears by a veterinarian.

The possession by any person of a dog with an ear or ears cut off or cropped and with the wound resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by such person except as provided for in this subsection. The owner of any dog whose ear or ears have been cut off or cropped before this section became effective may, if a resident of this Commonwealth, register such dog with the Treasurer of the County where he resides, and if a nonresident of this Commonwealth, with the Treasurer of any County of this Commonwealth, by certifying under oath, that the ear or ears of such dog were cut or cropped before this section became effective, and the payment of a fee of one dollar (\$1.00) into the County Treasury. The said Treasurer shall thereupon issue to such person a certificate showing such dog to be a lawfully cropped dog.

- (h.1) Animal Fighting. A person commits a felony of the third degree if he:
- (1) For amusement or gain, causes, allows or permits any animal to engage in animal fighting;
 - (2) Receives compensation for the admission of another person to any place kept or used for animal fighting;
 - (3) Owns, possesses, keeps, trains, promotes, purchases or knowingly sells any animal for animal fighting;
 - (4) In any way knowingly encourages, aids or assists therein;
 - (5) Wagers on the outcome of an animal fight;
 - (6) Pays for admission to an animal fight or attends an animal fight as a spectator; or
 - (7) Knowingly permits any place under his control or possession to be kept or used for animal fighting.

This section shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to Initiate Criminal Proceedings. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of Animals Kept or Used for Animal Fighting. Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be added absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return of the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured, or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of keeping, care and destruction of the animal.

(k) Killing Homing Pigeons. A person commits a summary offense if he shoots, maims or kills any Antwerp or homing pigeon, either while in flight or at rest, or detains or entraps any such pigeon, which carries the name of its owner.

(l) Search Warrants. Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the cost shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorized any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the cure or prevention of disease.

(m) Forfeiture. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for Summary Offense. In addition to any other penalty by law, a person convicted of a summary offense under this section shall pay a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) or to imprisonment for not more than ninety days, or both.

(n) Skinning of and Selling or Buying Pelts of Dogs and Cats. A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of Humane Society by Attorney. Upon prior authorization and approval by the District Attorney of the County in which the proceedings is held, an association or agent may be represented in any proceeding under this section and by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association, which is represented.

(o.1) Construction of Section. The provisions of this section shall not supersede the Act of December 7, 1982 (P.L. 784, No. 225), know as the Dog Law.

(p) Applicability of Section. This section shall not apply to, interfere with or hinder any activity, which is authorized or permitted pursuant to the Act of June 3, 1937 (P.L. 1225, No. 316), know as The Game Law or Title 34 (relating to game).

(q) Definitions. As used in this section, the following words and phrases shall have the meaning given to them in this subsection:

- (1) "Animal Fighting" means fighting or baiting any bull, bear, dog, cock or other creature.
- (2) "Audibly Impaired" means the inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.
- (3) "Blind" means having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter or the visual field subtends an angular distance not greater than 20 degrees.
- (4) "Conveyance" means a truck, tractor, trailer or semi-trailer, or any combination of these, propelled or drawn by mechanical power.
- (5) "Deaf" means totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.
- (6) "Domestic Animal" means any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.
- (7) "Domestic Fowl" means any avis raised for food, hobby or sport.
- (8) "Equine Animal" means any member of the Equidate family, which includes horses, asses, mules, ponies and zebras.
- (9) "Normal Agricultural Operation" means normal activity, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products, in the production and harvesting of agricultural, horticultural, silvicultural and aquicultural crops and commodities.
- (10) "Physically Limited" means having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.
- (11) "Zoo Animal" means any member of the class of mamalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.
(Ord. 3279. Passed 11-8-02.)

705.99 PENALTY.

Any person, or persons, violating any of the provisions of this article for which no other penalty has been provided shall be fined three hundred dollars (\$300.00).
(Ord. 3452. Passed 11-20-06.)

ARTICLE 709
Disorderly Conduct

709.01 Prohibited conduct. **709.99 Penalty.**

CROSS REFERENCES

Justice of the Peace powers; preservation of order; arrests -
see 42 P.S. Sec. 398

Arrest for disorderly conduct and breach of peace - see
Borough Code Sec. 1121 (53 P.S. Sec. 46121)

Power to regulate and enact ordinance re disorderly conduct;
imposition of penalties - see Borough Code Sec. 1202(20)
(53 P.S. Sec. 46202(20))

Mufflers required; prevention of noise - see Vehicle Code Sec.
828 (75 P.S. Sec. 828)

Driving under the influence of liquor or drugs - see Vehicle Code
Sec. 1037 (75 P.S. Sec. 1037)

709.01 PROHIBITED CONDUCT.

No person shall:

- (a) Be guilty of a breach of the peace, vagrancy, disorderly conduct, or engage in fighting or incite others to fight, or engage in any unlawful act tending to imperil the personal security or to endanger or injure property within the Borough;
- (b) Use loud, boisterous, profane, blasphemous, or indecent or immoral language upon or near any of the public highways or public places or in a manner so as to annoy residents in the neighborhood, or make any unseemly noise or disturbance to the annoyance of the residents nearby.
- (c) Commit any act of lewdness or public indecency or exposure of person, or become intoxicated.
- (d) Loaf, loiter or stand upon any of the sidewalks or other public highways or places, so as to interfere with the free and full passage of residents or travelers.
- (e) Set up, maintain, open or conduct any gambling place or device; immoral show, entertainment, or exhibition, unlawful drinking place, resort or house of prostitution; or to be gathered in or participate in the operation of the same, or to be a patron thereof.
- (f) Carry concealed any deadly weapon, unless authorized by law, or discharge any gun or firearm, unless in defense of person or property; to possess, use or offer for sale any fireworks of any character at any time; throw on or into any highway any stones, snowballs, or other material or raise any false alarm of fire.

- (g) Interfere with Borough police officers, resist arrest or fail to render assistance to the police officer when called upon by him; or tamper with, destroy, or otherwise interfere with any lights, guard rails, signs or other property or materials placed in public places by the Borough or any of its officials.
(Ord. 9. Passed 7-19-48.)

709.99 PENALTY.

Any person, or persons, violating any of the provisions of this article shall be subject to an imprisonment of not more than five days, or a fine of not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00) or both, for each offense and each separate occurrence of the same offense shall be considered a new offense and punishable as such.
(Ord. 1194. Passed 3-22-71.)

ARTICLE 713
Health, Safety and Sanitation

713.01 Obstructions.	713.04 Firearms.
713.02 Dumping garbage or refuse.	713.05 Heavy excavation and construction equipment.
713.03 Unnecessary noise and loud amplifying devices.	713.06 Explosives.

CROSS REFERENCES

- Power to prohibit and remove street obstructions or nuisances - see Borough Code Sec. 1202(4), (5) (53 P.S. Sec. 46202(4), (5))
- Power to make regulations necessary for health, safety, sanitation, etc., - see Borough Code Sec. 1202(6) (53 P.S. Sec. 46202(6))
- Power to prohibit burial - see Borough Code Sec. 1202(7) (53 P.S. Sec. 46202(7))
- Power to prohibit noxious and offensive business - see Borough Code Sec. 1202(28) (53 P.S. 46202(28))

713.01 OBSTRUCTIONS.

No person shall obstruct with coal, wood, barrels, boxes, wagons, carts, automobiles, or any other obstructions whatsoever, excepting for the purpose of immediate loading, removing or storing away, any of the public streets, sidewalks, highways, or alleys in this Borough. Any violation of this section is hereby declared a public nuisance, and the person violating the same shall, in addition to paying the fine and costs imposed, pay the cost of removing the same. Provided that this section shall not apply to building materials or other obstructions authorized by the proper permit from the Borough Secretary, nor materials used in the repair or laying of sidewalks.

(Ord. 8. Passed 7-19-48.)

713.02 DUMPING GARBAGE OR REFUSE.

(a) No owner of any property within the Borough limits shall use or allow his property to be used for dumping of any waste products, refuse, gob, garbage, paper, ashes or any other waste material without first having obtained the consent of Council.

(b) No person shall dump or cause to be dumped upon any property within the Borough limits any waste products, refuse, gob, garbage, paper, ashes, or any other waste material unless Council shall have consented to such dumping.

(Ord. 10. Passed 7-19-48.)

(c) Any owner of property in the Borough who violates the provision of this section shall be fined three hundred dollars (\$300.00) for every day that his property shall be so used, and in default thereof shall be committed to the Allegheny County Jail or Workhouse for a period not exceeding thirty days.

(d) Any other person violating the provisions of this section shall be fined three hundred dollars (\$300.00) for every such violation and in default thereof shall be committed to the Allegheny County Jail or Workhouse for a period not exceeding thirty days.
(Ord. 3452. Passed 11-20-06.)

713.03 UNNECESSARY NOISE AND LOUD AMPLIFYING DEVICES.

(a) No person shall unnecessarily and repeatedly sound the horn of any vehicle or use any loud signaling device thereon except emergency vehicle or a vehicle on emergency business.

(b) No person shall operate or cause to be operated, any audio amplification or reproduction device, including but not limited to an oversized hand carried radio, cassette, compact disc player, or one that is installed in or audio powered by a vehicle, on a City street or sidewalk, in a City park, on a public conveyance, or in any other public property which generates an A-weighted sound level in excess of 68 dB(a) in a residential area measured at, or adjusted to, a distance of 50 feet from the source. If an A-weighted sound device is not present, a violation has occurred if the disturbance is audible to an officer standing in excess of 75 feet away from the source of the disturbance. This subsection shall not apply to audio amplification devices used for open air musical concerts or any other private or public events.

(c) No person shall operate, or cause to be operated any audio amplification system on public or private property, which generates an A-weighted sound level in excess of 68 dB(a) in a residential area measured at, or adjusted to, a distance of 75 feet beyond the boundary of the property in which the audio amplification or reproduction system is located.

(d) Sound levels under subsection (b) and (c) hereof shall be measured with a sound level measuring device, either Type I and Type II as defined by American National Standards Institute Specifications. Section 1.4-1971.

(e) A person operating an audio amplification or reproduction device shall be exempt from this section provided that:

- (1) The device is being operated to request assistance or warn of a hazardous situation; or
- (2) The device is an authorized emergency vehicle or a vehicle operated by a gas, electric, communication or water utility; or
- (3) The device is being used in connection with a parade, political activity, amusement activity or community event that is being conducted under any permit issued by the Borough and is otherwise in compliance with the applicable sections of the White Oak Code provided that the recommended sound level in the applicable subsection is not exceeded between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. 3140. Passed 11-15-99.)

(f) Violation of subsection (b) shall result in the mandatory fine of three hundred dollars (\$300.00). Violation of subsection (c) herein is a public nuisance, disturbing the peace and injurious to the public interest, and may be abated forthwith.
(Ord. 3452. Passed 11-20-06.)

713.04 FIREARMS.

(a) Possession of Firearms on Municipal Property Prohibited. From and after the enactment of this section it shall be unlawful for any person to possess, be in possession of, carry on to Municipal property within the Borough of White Oak, any firearm, air rifle, bow and arrow or other similar device.

(b) Exemptions. Any authorized law enforcement officer in the discharge of their official duty, shall be exempt from the provisions of this section.
(Ord. 3188. Passed 9-18-00.)

(c) Penalty. Any person who shall violate any provision of this section shall, upon conviction thereof, be sentenced to pay a fine of one thousand dollars (\$1,000), and in default of payment, to imprisonment for a term not to exceed thirty days.
(Ord. 3452. Passed 11-20-06.)

713.05 HEAVY EXCAVATION AND CONSTRUCTION EQUIPMENT.

(a) Permitted Hours of Operation. The operation of heavy construction, excavation machinery, such as bulldozers, highlifts, pumps, power shovels, backhoes, jackhammers or any other type of machinery used in the course of land development, residential and/or building construction and residential home repairs, which is inclined to cause noises sufficient to disturb the peace and tranquillity of the general public or any portion thereof shall be prohibited in the entire Borough of White Oak between the hours of 11:00 p.m. and 7:00 a.m.

(b) Exceptions. This section shall not be applicable to the use of machinery and equipment for the removal of ice or snow or to the use of machinery or equipment in emergency situations which would involve the Borough of White Oak or any other public utility in which there is an immediate threat of loss of life or property.
(Ord. 3240. Passed 12-17-01.)

(c) Penalty. Any person who shall violate any provision of this section shall, upon conviction thereof, be sentenced to pay a fine of one thousand dollars (\$1,000) and in default of payment, to imprisonment for a term not to exceed thirty days.
(Ord. 3452. Passed 11-20-06.)

713.06 EXPLOSIVES.

(a) Definitions.

- (1) "Explosives" means any chemical compound, mixture or device, the primary, the purpose of which is to function by explosives; the term includes but is not limited to dynamite, initiating explosives, detonators, safety fuses, squids, detonating cord, ignition cord, ignitors, and fireworks, and any other explosive listed in the Federal Register. The term "fireworks" shall not include sparklers, toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times, nor shall the term "fireworks" include toy cannons which operate on the principle of mixing calcium carbide, weighing less than one tenth of an ounce, and water in the reservoir of the cannon and in which ignition results upon the creation of a spark.

- (2) "Detonator" means any device containing a detonating charge that is used for initiating detonation in a explosive; the term includes electric blasting caps of instantaneous and delayed types, blasting caps for use with safety fuses and detonating cord delay connectors as well as detonating devices for fireworks.
- (3) "Storage magazine" means all storage facilities, except portable outdoor facilities for temporary storage of high explosives while attended (day box) and low explosives smokeless powders storage facilities.
- (4) The following are not included in the above definitions: smokeless powder, black powder, ammunition and components.

(b) Storage and Manufacturing. All storage and manufacture of explosives, blasting agents and detonators are prohibited within the Borough of White Oak.

(c) Storage Magazines. All storage magazines and other facilities used for the purpose of the storage of explosives, blasting agents and detonators are prohibited within the Borough of White Oak.

(d) Seizure of Explosives and Magazines. Any explosives, blasting agents, detonators and explosives facility found within the Borough of White Oak in violation of this Article are declared dangerous to the safety of the citizens of the Borough and shall be seized, removed or caused to be removed and destroyed by the proper Borough official or its designated representative, at the expense of the owner said explosive, blasting agents, detonator and explosive facility.

(e) Use of Explosives.

- (1) Use of explosives, fireworks, blasting agents and detonators shall be controlled by the Borough of White Oak and a permit must be obtained for use of said explosive, fireworks, blasting agent and detonator by the Borough Code Officer before usage. Applications for Permits must be made in writing at least fifteen days prior to use.
- (2) The permit fee shall be one hundred fifty dollars (\$150.00) per permit.
- (3) No permit issued hereunder shall be transferable.
- (4) A Permittee shall be required to have Fire, Police and EMS Personnel on site and all costs associated with the staffing of equipment/personnel to be borne solely by the Permittee.
- (5) The Permittee shall be required to pay for all costs of clean-up of the area permitted.
- (6) The Municipal Code Officer of the Borough of White Oak must approve the site location as part of the permit process.
- (7) All Permittee's must provide documentation of insurance coverage, as established by the Borough, and must supply to the Municipal Code Officer and required state, federal and/or local licensing/registering of any required personnel to be used in the explosive, blasting agent and/or detonator circumstance.
(Ord. 3239. Passed 12-17-01.)

(f) Penalty. Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of one thousand dollars (\$1,000) and in default of payment, to imprisonment for a term not to exceed thirty days.
(Ord. 3452. Passed 11-20-06.)

**ARTICLE 717
Liquor Control**

717.01	Definitions.	717.03	Exemptions.
717.02	Public consumption prohibited.	717.04	Penalty.

CROSS REFERENCES

Driving under the influence of liquor or drugs - see Vehicle Code Sec. 1037 (75 P.S. Sec. 1037)
Disorderly conduct - see GEN. OFF. Art. 709

717.01 DEFINITIONS.

For purposes of this article, terms and words shall be defined as follows:

- (a) "Public streets" means all public streets of the Borough, either opened or unopened.
- (b) "Public highways" means all public highways of the Borough, either opened or unopened.
- (c) "Public sidewalks" means all public sidewalks of the Borough.
- (d) "Public places" means all areas in the Borough made open to the public including, but not limited to, all property owned by the Borough; all retail, commercial and business establishments in the Borough, except those specifically exempted herein; all vacant land in the Borough; either publicly or privately owned, from which the public has not been specifically prohibited.
- (e) "Alcoholic beverages" means all beverages deemed to be alcoholic or intoxicating under the Liquor Laws of the Commonwealth of Pennsylvania or the rules and regulations of the Pennsylvania Liquor Control Board.
(Ord. 2113. Passed 6-8-81.)

717.02 PUBLIC CONSUMPTION PROHIBITED.

No person shall consume, and/or drink alcoholic beverages in and/or from open containers having therein any alcoholic beverage in public view on any public street, public highway, public sidewalk, parking lot, shopping mall or in or on any moving vehicle within the Borough.

(Ord. 2113. Passed 6-8-81.)

717.03 EXEMPTIONS.

This article shall no way regulate or apply to those areas or establishments specifically licensed by the Pennsylvania Liquor Control Board for the possession, consumption or transportation of alcoholic beverages and further shall exclude those public areas commonly designated as areas in which citizens are customarily permitted to assemble for recreation, sport and educational purposes and in which the consumption of food and beverages are customarily permitted.

(Ord. 2113. Passed 6-8-81.)

717.99 PENALTY.

Any person violating the provisions of this article shall, upon summary conviction before a Magistrate, be subject to a fine not exceeding three hundred dollars (\$300.00) and costs, and in default of the payment of the fine and costs shall be subject to imprisonment in the County Jail for a period not exceeding ninety days.

(Ord. 2113. Passed 6-8-81.)

**ARTICLE 721
Minors**

<p>721.01 Purpose and findings.</p> <p>721.02 Definitions.</p> <p>721.03 Imposition of curfew.</p> <p>721.04 Exceptions.</p> <p>721.05 Parental responsibility.</p> <p>721.06 Police procedures.</p>	<p>721.07 Unlawful conduct of owners or operators of establishments.</p> <p>721.08 Construction and interpretation; advisory opinions.</p> <p>721.99 Penalty.</p>
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CROSS REFERENCES

Authority to make regulations necessary for the safety, morals and general welfare of the Borough - see Borough Code Sec. 1202(6) (53 P.S. Sec. 46202(6))

721.01 PURPOSE AND FINDINGS.

The Borough has found that the number and seriousness of crimes committed by minors against persons and property within the Borough is increasing and has created a menace to the preservation of public peace, safety, health, morals and welfare. The purpose of this article is to prescribe, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night for the good of minors, for the furtherance of family responsibility and for the public good, safety and welfare. (Ord. 2028. Passed 10-15-79.)

721.02 DEFINITIONS.

(a) Word Usage. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(b) Definitions. For the purposes of this article, the following terms, phrases, words and their derivations shall have the following given herein:

- (1) "Borough" means the Borough of White Oak, County of Allegheny Commonwealth of Pennsylvania, with township and police administrative offices located as 2280 Lincoln Way, White Oak, Pennsylvania 15131.
- (2) "Establishment" means any privately owned place of business carried on for a profit or any place of amusement or entertainment to which the public is invited.
- (3) "Minor" means any person under the age of eighteen, or, in equivalent phrasing often herein employed, any person seventeen or less years of age.

- (4) "Operator" means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment; and whenever used in any clause prescribing a penalty, the term "operator" as applied to associations or partnerships, shall include the members or partners thereof, and as applied to corporations, shall include the officers thereof.
- (5) "Parent" means any person having legal custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis or as a person to whom legal custody has been given by order of court.
- (6) "Remain" means to stay unnecessarily upon the streets, including the congregating of interacting minors in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. To implement that thought with additional precision and precaution, numerous exceptions are expressly defined in Section 721.04 so that this is not a mere prohibitory or presence-type curfew ordinance. More and more exceptions become available with increasing years and advancing maturity as appropriate in the interest of reasonable regulation, which is intended by use of the meaningful phrase "be or remain" found constitutional in Baker v. Borough of Steelton, 17 Dauph. 17 (1912), a decision properly classified in Thistlewood v. Trail Magistrate for Ocean City, 236 Md. 204 A. 2d 688,691 (1964), as relating to a curfew ordinance of the "remaining" type.
- (7) "Street" means a way or place, of whatsoever nature, open to use by the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. The term "street" includes the legal right of way, including but not limited to the cartway or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a "street". The term "street" applies irrespective of what it is called or formally named, whether alley, avenue, court, road or otherwise.
- (8) "Time of night" as referred to herein, is based upon the prevailing standing of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the Borough, prima facie the time then observed in the Borough administrative offices and police station.
- (9) "Year of age" continues from one birthday, such as the seventeenth, to but not including the day of the next such as the eighteenth, making it clear that seventeen or less years of age is herein treated as equivalent to the phrase "under eighteen years of age", the latter phrase in practice, unfortunately, having confused a number of persons into the mistaken thought that eighteen-year-olds might be involved.
(Ord. 2028. Passed 10-15-79.)

721.03 IMPOSITION OF CURFEW.

No person seventeen or less years of age (under eighteen) shall be or remain in or upon the streets within the Borough at night during the period ending at 5:00 a.m. and beginning:

- (a) At 10:00 p.m. during the days Sunday through Thursday, inclusive; and
 - (b) At 12:00 midnight during the days Friday and Saturday.
- (Ord. 2028. Passed 10-15-79.)

721.04 EXCEPTIONS.

(a) In the following exceptional cases a minor on a Borough street during the nocturnal hours for which Section 721.03 is intended to provide the maximum limits of regulation (and a clear general guide for minors, their parents and their fellow citizens) shall not, however, be considered in violation of this article.

- (1) When accompanied by a parent of such minor.
- (2) When accompanied by an adult authorized by a parent of such minor to take the parent's place in accompanying such minor for a designated period of time and purpose within a specified area.
- (3) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise by first delivering to the Chief of Police of the Borough Municipal Building, 2280 Lincoln Way, White Oak, Pennsylvania, a written communication signed by such minor and countersigned, if practicable, by a parent of such minor, with their home address and telephone number, addressed to the Chief of Police of the Borough, specifying when, where and in what manner the minor will be on the streets at night, during the hours when this article is otherwise applicable to the minor, in the exercise of a First Amendment right specified in such communication.
- (4) In case of reasonable necessity but only after such minor's parent has communicated to the Borough police station personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose, including points of origin and destination. A copy of such communication or of the police record thereof, duly certified by the Chief of Police to be correct with an appropriate notation of the time it was received and of the names and addresses of such parent and minor, shall be admissible evidence.
- (5) When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next-door neighbor not communicating an objection to the police officer.

- (6) When returning home by a direct route from, and within thirty minutes of the termination of a school activity or an activity of a religious or other voluntary association, of which activity prior notice, indicating the place and probable time of termination, has been given in writing to and duly filed for immediate reference by the Chief of Police or the officer assigned by him on duty at the police station, thus encouraging, here as in other exceptional situations, conduct on the part of the minors involved in such activities and striking a fair balance for any somewhat conflicting interests.
- (7) When authorized by special permit from the Chief of Police, carried on the person of the minor thus authorized as follows:
- A. When normal or necessary nighttime activities of a minor may be inadequately provided for by other provisions of this article then recourse may be had to the Chief of Police of the Borough either for a regulation as provided in subsection (8) hereof or for a special permit as the circumstances warrant.
 - B. Upon the Chief of Police's finding of necessity for the use of the streets to the extent warranted by a written application (as judicially approved in People v. Walton, 70 Cal. App. 2d Supp. 862, 171 p. 2d 498, 502-503 (1945), signed by a minor and by a parent of such minor, if feasible, the Chief of Police may grant a permit in writing for the use of such minor of such streets at such hours as in the Chief of Police's opinion may reasonably be necessary.
 - C. The application shall state:
 1. The name, age and address of such minor.
 2. The name, address and telephone number of a parent thereof.
 3. The height, weight, sex, color of eyes and hair and other physical characteristics of such minor.
 4. The necessity which requires such minor to remain upon the streets during the curfew hours otherwise applicable.
 5. The street or route and the beginning and ending of the period of time involved, by date and hour.
 - D. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously, either to the Chief of Police or, if unavailable, to the police officer authorized by the Chief of Police to act on his behalf in an emergency, at the police station.

- (8) When authorized by regulation issued by the Chief of Police in other similar cases of reasonable necessity, similarly handled but adapted to necessary nighttime activities of more minors than can readily be dealt with on an individual special permit basis. Normally such regulation by the Chief of Police permitting use of the streets should be issued sufficiently in advance to permit appropriate publicity through the news media and through other agencies such as the schools and shall define the activity, the scope of the use of the streets permitted, the period of time involved (not to extend more than thirty minutes beyond the time for termination of such activity) and the reason for finding that such regulation is reasonably necessary and is consistent with the purposes of this article.
- (9) When the minor carried a certified card of employment, renewable each calendar month, signed by the Chief of Police and briefly identifying the minor, the addresses of his home and of his employment and hours of employment.
- (10) When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. From excess of caution, this clearly exempts bona fide interstate travel beginning or ending in the Borough.
- (11) When the minor is seventeen years of age, if and when the Chief of Police shall have determined by formal rule, first reported to the members of Council, spread upon its minutes and so reported in the press, finding that the facts as to the extent (minimal) of juvenile delinquency in such age group currently permit such rule in the best interests of such minors and of the Borough and finding that this article shall be relaxed, then the Chief of Police, by such formal rule, covering a period of time designated therein or until rescission thereof, not exceeding one year from the date thereof, may take appropriate action excepting designated minors, minors in a defined group or area or all minors, as the current facts may warrant, seventeen years of age during the period that such formal rule is and remains in effect.

(b) Each of the foregoing exceptions and their several limitations, such as provisions for notification, is severable, as hereinafter provided but here reemphasized; and additional, also severable, exceptions, broadening with the progress toward maturity of minors enrolled respectively in elementary, junior high and high schools, will be considered by the members of Council as warranted by future experience, illuminated by the view of student government associations, school personnel, citizens, associations, ward, precinct and neighborhood spokesmen, parents, officers and persons in authority concerned positively with minors as well as with juvenile delinquency.

(Ord. 2028. Passed 10-15-79.)

721.05 PARENTAL RESPONSIBILITY.

No parent having legal custody of a minor by inefficient control shall permit or by inefficient control allow such minor to be or remain upon any Borough street under circumstances not constituting an exception to or otherwise beyond the scope of this article. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.
(Ord. 2028. Passed 10-15-79.)

721.06 POLICE PROCEDURES.

A policeman of the Borough, upon finding or having his attention called to any minor on the streets in prima facie violation of this article, normally shall take the minor to the Borough police station, where a parent shall immediately be notified to come for such minor. In the absence of convincing evidence, such as a birth certificate, a policeman on the street shall in the first instance use his best judgment in determining age.

- (a) Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the policeman may deliver to a parent thereof a minor under appropriate circumstances, for example, a minor of tender age near home whose identity and address may readily be ascertained or are known.
- (b) In any event such policeman shall within twenty-four hours file a written report with the Chief of Police or shall participate, to the extent of the information for which he is responsible, in the preparation and filing by himself and the officer involved in such case of such report within twenty-four hours.
- (c) When a parent, immediately called, has come to take charge of the minor and the appropriate information has been recorded, the minor shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, except to the extent that in accordance with police regulations approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor or other person who will on behalf of a parent assume the responsibility of caring for the minor pending the availability or arrival of a parent.
(Ord. 2028. Passed 10-15-79.)

721.07 UNLAWFUL CONDUCT OF OWNERS OR OPERATORS OF ESTABLISHMENTS.

No operator of an establishment or his agents or employees shall knowingly permit any minor to remain upon the premises of the establishment between the hours of 10:00 p.m. and 5:00 a.m. of the following day, except that on Fridays and Saturdays the hours shall be from 12:00 midnight to 5:00 a.m.
(Ord. 2028. Passed 10-15-79.)

721.08 CONSTRUCTION AND INTERPRETATION; ADVISORY OPINIONS.

(a) Severability is intended throughout and within the provisions of this article. If any provision, including, inter alia, any exceptions, part, phrase or term, or the application thereof to any person or circumstance, is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this article in any and all other respects shall not be affected thereby.

(b) It is intended that this article be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. Members of Council do not intend to violate the Constitution of the Commonwealth of Pennsylvania or the Constitution of the United States of America. (Ord. 2028. Passed 10-15-79.)

721.99 PENALTY.

(a) Whenever a minor shall first violate the terms hereof, it shall also be treated as a first offense by a parent. For such first parental offense a parent shall be fined one hundred dollars (\$100.00). For a second subsequent offense by a parent the fine shall be increased to two hundred dollars (\$200.00). For a third subsequent offense and for any succeeding offenses thereafter, the fine shall be increased to an amount not exceeding five hundred dollars (\$500.00) in any instance. The District Justice of the Peace or Magistrate, upon finding a parent guilty, shall sentence the parent to pay such fine and costs of prosecution, and upon refusal to pay such fine and costs, to be imprisoned for a period not exceeding ten days. Community services may also be imposed when deemed appropriate. (Ord. 3158. Passed 2-21-00.)

(b) Any minor who shall violate any of the provisions of this article more than three times shall be reported by the Chief of Police to a society or organizations whose purpose it is to take charge of incorrigibles and delinquents, and proceedings shall then be taken under the applicable provisions of the Pa. Juvenile Act (11 P.S. Sec. 50-101 et seq.) and the Pa. Child Protective Services Law (11 P.S. Sec. 2201-2224), before the Juvenile Court for the treatment, supervision and rehabilitation of such minor.

(c) A like procedure before the juvenile authorities shall be followed in any case where the imposing of a fine or fines followed in any case where the imposing of a fine or fines upon a parent shall not be effective or where for any other reason the provisions of this article cannot be made effective by the imposing of penalties under this section.

(d) Any operator of an establishment and any agent or employee of any operator who shall violate the provisions of this article shall, upon conviction, be punishable as provided in subsection (a) hereof. (Ord. 2028. Passed 10-15-79.)

**ARTICLE 725
Obscenity**

725.01	Definitions.	725.06	Action to be taken by Council.
725.02	Nuisance conditions; abatement.	725.07	Forfeiture; manner of collection.
725.03	Massage parlors or model studios.	725.08	Action to be taken by the Borough Solicitor.
725.04	Notice to abate nuisance.		
725.05	Action to be taken by police.		

CROSS REFERENCES

Regulating theatrical exhibitions - see 53 P.S. Sec. 46202(30)

725.01 DEFINITIONS.

(a) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct or other content which appears in the motion picture film, publications or live theatre production, or knowledge of the acts of lewdness and/or obscenity, assignation, or prostitution which occur in any place.

(b) "Lewd and or obscene" matter means any matter:

- (1) Which the average person, applying contemporary community standards would find, when considered as a whole, appeals to the prurient interest; and
- (2) Which depicts or describes patently offensive representations or descriptions of:
 - A. Ultimate sexual acts, normal or perverted, actual or simulated; or
 - B. Masturbation, excretory functions, or genital area.

Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

(c) "Live theatre production" means any dramatic, musical or comedic production performed in the presence of a live audience.

(d) "Massage" means any method of treating the superficial soft parts of the human body, for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading, or any similar treatment, accomplished by hand or by the use of any instrument.

- (e) "Massage parlor" means any building or structure or portion thereof, located within the Borough, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.
- (f) "Matter" means a motion picture film, live theatre production, publication, or all three.
- (g) "Model studio" means:
- (1) Any place where there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration or compensation or a gratuity, for the right or opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition for remaining upon the place; or
 - (2) Any place where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration or compensation or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.
 - (3) Exception. The words "model studio" do not include:
 - A. Any studio which is operated by any State college or junior college, public or private school, or any governmental agency wherein the person, firm, association, partnership or corporation so operating has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma; or
 - B. Any place where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in subsection (3)(g)A. hereof.
- (h) "Motion picture film" includes any:
- (1) Film or plate negative;
 - (2) Film or plate positive;
 - (3) Film designated to be projected on a screen for exhibition;
 - (4) Films, glass slides or transparencies, either in negative or positive form, designated for exhibition by projection on a screen;
 - (5) Video tape or any other medium used to electronically reproduce images on a screen.

- (i) "Nude" includes:
- (1) Completely without clothing; or
 - (2) With the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the covered male genitals in a discernibly turgid state.

(j) "Person" means any individual, partnership, firm, association, corporation or other legal entity.

(k) "Place" includes, but is not limited to, any building, structure, or space, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(l) "Publication" includes any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a motion picture film, which is displayed in an area open to the public, offered for sale or exhibited in a coin-operated machine.

(m) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of lewd and/or obscene matter.
(Ord. 2031. Passed 11-19-79.)

725.02 NUISANCE CONDITIONS; ABATEMENT.

(a) Any and every place in the Borough where lewd and/or obscene motion picture films or live theatre productions are publicly exhibited or possessed for the purpose of such exhibition; and any and every place in the Borough where a lewd and/or obscene motion picture films or live theatre production is publicly or repeatedly exhibited, or possessed for the purpose of such exhibitions, is a public nuisance.

(b) Any and every lewd and/or obscene motion picture film which is publicly exhibited or possessed for such purpose at a place which is a public nuisance under subsection (a) hereof, is a public nuisance per se.

(c) From and after service on the place, or its manager, or acting manager, or person then in charge of such place, of a true and correct copy of this article and a true and correct copy of the resolution and order of summary abatement provided for in Section 725.05 hereof, all monies paid thereafter as admission price for such exhibitions or productions are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(d) Any and every place in the Borough where lewd and/or obscene publications constitute a part of the stock in trade is a public nuisance.

(e) Any and every lewd and/or obscene publication possessed at a place which is a public nuisance under subsection (d) hereof, is a public nuisance per se.

(f) From and after service on the place, or its manager or acting manager, or person then in charge of such place, of a true and correct copy of this article and a true and correct copy of the resolution and order of summary abatement provided for in Section 725.05 hereof, all valuable consideration received for the sale of such lewd and/or obscene publications is also declared to be a public nuisance as personal property used in conducting and maintaining a declared public nuisance.
(Ord. 2031. Passed 11-19-79.)

725.03 MASSAGE PARLORS OR MODEL STUDIOS.

(a) Every massage parlor or model studio, which as a regular course of business, is used for the purposes of lewdness and/or obscenity assignation, or prostitution, and every such massage parlor or model studio, in or upon which acts of lewdness and/or obscenity, assignation, or prostitution, are held or occur, is a public nuisance which shall be enjoined, abated and prevented.

(b) From and after service on the place, or its manager or acting manager, or person then in charge of such place, of a true and correct copy of this article and a true and correct copy of the resolution and order of summary abatement provided for in Section 725.05 hereof, all monies or other valuable consideration paid for services rendered to customers are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.
(Ord. 2031. Passed 11-19-79.)

725.04 NOTICE TO ABATE NUISANCE.

(a) Upon and after receiving notice through service of a true and correct copy of this article and a true and correct copy of the resolution and order of summary abatement provided for in Section 725.05 hereof, any and every person who shall own, legally or equitably, lease, maintain, manage, conduct or operate a place in the Borough which is declared to be a public nuisance as set forth and stated in Sections 725.02 and 725.03, is deemed to be a person who has knowledge of such nuisance for the purpose of this article, and is, thereafter, responsible for its maintenance, and shall be liable therefor.

(b) The places and matters declared to be public nuisances under Sections 725.02 and 725.03 shall be abated as provided herein.
(Ord. 2031. Passed 11-19-79.)

725.05 ACTION TO BE TAKEN BY POLICE.

The Police Department shall investigate all complaints that activity constituting a public nuisance, as defined in Sections 725.02 and 725.03, exists in the Borough and make recommendations to Council as to the application of this article to such activity.
(Ord. 2031. Passed 11-19-79.)

725.06 ACTION TO BE TAKEN BY COUNCIL.

Upon the recommendation of the Police Department and/or upon Council's specific finding that a public nuisance exists in the Borough, Council in applying the provisions of this article to such nuisance, shall provide for the following by resolution:

- (a) Declare the fact that such nuisance exists;
- (b) Set forth the description or legal description and street address of the place which constitutes the nuisance;
- (c) Set forth the the evidentiary facts considered by Council in arriving at its factual determination.
 - (1) In the case of a motion picture film or live theatre production, such shall include a recitation of the particular sexual conduct and acts which Council finds are patently offensive, and the basis for the findings by Council that such motion picture film or live theatre production is publicly exhibited or produced in the course of business, or that such motion picture film or live theatre production is publicly or repeatedly exhibited or produced, or held for such exhibition or production at the place declared to be a nuisance.
 - (2) In the case of a publication, such shall include a recitation of the particular publications or types of publications considered by Council, and those which the Council finds to be patently offensive and the basis for the finding by Council that such publications are displayed, sold or held for sale at any place found by Council to be a public nuisance and the basis of the finding by Council that such publications constitute a part of the stock in trade of such place or business or other place.
 - (3) In the case of a massage parlor or model studio, such shall include recitation of the particular acts of lewdness and/or obscenity, assignation, or prostitution which have occurred, and the basis for the finding by Council that such acts occur in the course of business.
- (d) Order all persons described in Section 725.04(a) to summarily abate such public nuisance within twenty-four hours of service of such order on any such persons, by terminating the exhibition, sale or possession for sale of such lewd and/or obscene matter or by ceasing to use the place where the nuisance is declared to exist or by terminating the use of such place for the purposes of lewdness and/or obscenity, assignation, or prostitution, or causing the same to be terminated, and notifying the Council of compliance therewith by sworn affidavit as ordered by the action of Council in such resolution.
- (e) Order the Borough Solicitor to proceed to do all things necessary to abate such public nuisance through judicial proceedings and to conclude such proceedings as expeditiously as it is permissible under the law, including requesting the Court to advance such proceedings on the calendar of the Court.

- (f) Inform and give notice to persons designated in Section 725.04(a):
- (1) Council has determined that a public nuisance presently exists at such place and address, and that, under Section 725.04(a), they are deemed to have knowledge thereof and are responsible therefor.
 - (2) In the event the order of the Borough is not complied with within twenty-four hours, Council has ordered the Borough Solicitor, as provided for under Section 725.08 to commence necessary legal proceedings naming such persons as defendants in a civil action to abate the public nuisance judicially under Section 725.06 and that under Sections 725.07(a) and (b), the costs of abatement of such civil abatement action filed including investigative costs, court costs, attorney's fees and other expenses, are made a special assessment against the parcel of land upon which such nuisance is being maintained and, upon their determination in such court action, will, by separate legal procedure, be made a lien against any person deemed to be in violation of this article.
 - (3) All lewd and/or obscene motion picture films or lewd and/or obscene publications being used in conducting and maintaining such public nuisance are contraband and the subject of forfeiture, and
 - (4) From and after service on the place, or its manager, or acting manager, or person then in charge of such a place, of a true and correct copy of this article and true and correct copy of such resolution, any and all monies paid as admission price to or for the sale of such lewd and/or obscene publications, and all monies or other valuable consideration received for services rendered in such massage parlors or model studios are a public nuisance as personal property used in conducting and maintaining such nuisance and, as such, are the subject of forfeiture.
- (g) Order that a true and correct copy of such resolution and a true and correct copy of this article be delivered forthwith in any manner normally used to effectuate personal service of process to all personas of record having any legal or equitable interest in the real property, and to the regular or acting manager or persons in charge of the place therein declared a public nuisance.
- (h) Do all things necessary and proper to carry out the intention of this article whether such specific actions have been recited herein or not, for the benefit of the Borough and/or its citizens.
(Ord. 2031. Passed 11-19-79.)

725.07 FOREFEITURE; MANNER OF COLLECTION.

(a) Upon judgment for the Borough in legal proceedings brought pursuant to this article, an accounting shall be made by such defendant or defendants of all monies or valuable consideration received by them which have been declared to be a public nuisance under Section 725.02. Such monies or their equivalent and any valuable consideration received shall be forfeited to the General Fund of the Borough or to the Borough as property of the Borough if any valuable consideration received be not money.

- (b) The cost of abatement shall include the following:
- (1) Investigative costs.
 - (2) Court costs.
 - (3) Reasonable attorney's fees arising out of the preparation for, and trial of the cause, and appeals therefrom, and other costs allowed on appeal.
 - (4) Printing costs of trial and appellate briefs, and all other papers filed in such proceeding.

Such cost of abatement is hereby made a special assessment against the parcel of land upon which such nuisance is maintained. Upon its determination in civil action such shall be a separate legal proceeding, be made a lien against such property and a personal obligation against any person, and shall be collected at the same time and in the same manner as ordinary Borough taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary Borough taxes. All laws applicable to the levy, collection and enforcement of Borough taxes shall be applicable to such special assessment. (Ord. 2031. Passed 11-19-79.)

725.08 ACTION TO BE TAKEN BY THE BOROUGH SOLICITOR.

Upon a specific finding by resolution of Council that a public nuisance exists at a particular location, the Borough Solicitor, with the approval of Council, is authorized to take whatever action is appropriate to carry out this article. (Ord. 2031. Passed 11-19-79.)

ARTICLE 733
Weeds, Trees and Shrubs

733.01 Cutting weeds; grass.
733.02 Nuisances.

**733.03 Notice to cut; work
done by Borough.**
733.99 Penalty.

CROSS REFERENCES

Power to make regulations for health, safety, sanitation - see
Borough Code Sec. 1202(6) (53 P.S. Sec. 46202(6))
Power to prohibit noxious and offensive businesses - see
Borough Code Sec. 1202(28) (53 P.S. 46202(28))

733.01 CUTTING WEEDS; GRASS.

No person, firm or corporation as owner or occupant in possession of any property within the Borough shall permit any grass, weeds or other noxious vegetation whatsoever, not edible or planted for some useful or ornamental purpose whatsoever to grow or remain upon such premises in excess of a height of six inches or to throw off any unpleasant or noxious odor or to conceal any noxious and filthy deposit or to create and produce pollen nor permit any ornamental tree, shrub or other vegetation planted upon the property line at street intersections to remain untrimmed so as to interfere with proper view of such intersection and the flow of traffic and in any event not to exceed a height of three feet above the average street level of the abutting streets.
(Ord. 1158. Passed 8-17-70.)

733.02 NUISANCES.

Any grass, weeds, ornamental tree or shrub or other vegetation growing upon any premises in the Borough in violation of Section 733.02 is hereby declared to be a nuisance and detrimental to the health, safety and welfare of the inhabitants of the Borough.
(Ord. 1158. Passed 8-17-70.)

733.03 NOTICE TO CUT; WORK DONE BY BOROUGH.

The Borough Secretary, the Building Inspector or either of them, is hereby authorized to give notice by personal service or registered United States mail to the owner or occupant, as the case may be, of any premises whereon grass, weeds, ornamental tree or shrub or other vegetation is growing and being in violation of the provisions of Section 733.01 directing and requiring such occupant to remove, trim or cut the same so as to conform to the requirements of this article within five days after issuance of such notice, and in the event that any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the stated time, the Borough authorities may remove, trim or cut such grass, weeds, ornamental tree or shrub or other vegetation, and the cost thereof, together with any additional penalty authorized by law, may be collected by the Borough from such violator in the manner provided by law.
(Ord. 1158. Passed 8-17-70.)

733.99 PENALTY.

Any person, firm or corporation who or which violates or fails, neglects or refuses to comply with any of the provisions of this article, shall, upon conviction thereof, be sentenced to pay a fine of three hundred dollars (\$300.00) and costs of prosecution; and be it further provided that each day's violation shall constitute a separate offense and notice to such offender shall not be necessary in order to constitute further offense or violation.
(Ord. 3452. Passed 11-20-06.)