

**ORDINANCE No. 6-3-1 of 2013**

**AN ORDINANCE OF THE BOROUGH OF FREELAND, COUNTY OF LUZERNE,  
COMMONWEALTH OF PENNSYLVANIA ESTABLISHING AN ORDINANCE THAT  
DEFINES NUISANCE PROPERTIES AND PROVIDES A PROCESS FOR ENFORCEMENT  
AND ABATEMENT**

**SECTION 1. TITLE.** This Ordinance shall be known as the "Freeland Borough Chronic Nuisance Property Ordinance."

**SECTION 2. PURPOSE.**

- (a) Freeland Borough Council finds that "Chronic Nuisance Properties": (1) jeopardize the public health, safety, welfare and morals; (2) cause adverse impacts to the residents of the Borough and interfere with the residents quality of life and quiet enjoyment of their property; (3) diminishing property values; (4) prevent people from moving into the Borough; and (5) pose a financial burden on the Borough by repeated calls for service by codes and streets.
- (b) This Ordinance is meant to: (1) identify "Chronic Nuisance Properties"; (2) hold those persons responsible for such properties accountable; and (3) remedy nuisance activities that frustrate the purpose of this Ordinance by providing a process for abatement.

**SECTION 3. DEFINITIONS.** For purposes of this Ordinance, the following words or phrases shall have the meaning prescribed below unless the context clearly indicates otherwise:

- (a) "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition, which constitutes a violation of this Ordinance by such means and in such a manner and to such an extent of the general health, safety and welfare of the community.
- (b) "Control" means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property.
- (c) "Chronic Nuisance Property" means property upon which three or more founded nuisance activities occur or exist within a twelve (12) month period.
- (d) "Drug-related activity" means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined by State law.
- (e) "Issuing Officer" includes the Fire Chief, a police officer or a code enforcement officer of the Borough of Freeland, County of Luzerne, and Commonwealth of Pennsylvania.
- (f) "Nuisance activity" means:
  - (1) Any nuisance as defined by state law or local ordinance occurring on, around or near a property, including but not limited to, violations of the following laws and regulations:

- (a) Unauthorized and Junk Vehicles;
- (b) Building, Property Maintenance or Fire Code; or
- (c) Health and Sanitation.

(2) Any criminal conduct as defined by state law or local ordinance occurring on, around or near a property, including, but not limited to, the following activities or behaviors:

- (a) Stalking;
- (b) Harassment;
- (c) Failure to Disperse;
- (d) Disorderly Conduct;
- (e) Assault;
- (f) Any Domestic Violence Crimes;
- (g) Reckless Endangerment;
- (h) Prostitution;
- (i) Patronizing a Prostitute;
- (j) Public Disturbance Noises;
- (k) Lewd Conduct;
- (l) Any Firearms/Dangerous Weapons violations;
- (m) Drug related loitering;
- (n) Any Dangerous Animal violations; and
- (o) Any Drug related activity.

(3) "Nuisance Activity" shall not include conduct where the person responsible is the victim of a crime and had no control over the criminal act.

(g) "Person responsible" means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this Ordinance, an occupant in control of the property or structure which is subject to this Ordinance, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this Ordinance and/or any person who has control over the property and allows a violation of this Ordinance to continue.

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(h) "Person" means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them.

(i) "Premises" or "Property" may be used by this Ordinance interchangeably and means any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property.

(j) "Rental Unit" means any structure or that part of a structure, including but not limited to any dwelling unit, single, two-family or multi-family family dwelling unit, home, room, or apartment, which is rented to another and used as a residence, or sleeping quarters for one or more persons.

#### **SECTION 4. VIOLATION.**

(a) Any property within the Borough of Freeland which is a Chronic Nuisance Property is in violation of this Ordinance and shall be subject to its remedies; and

(b) Any person responsible for property who permits property to be a Chronic Nuisance Property shall be in violation of this Ordinance and subject to its remedies.

#### **SECTION 5. NOTICE.**

(a) When any police officer; the Fire Chief, or a code enforcement officer, receives documentation confirming the occurrence of three or more nuisance activities within a twelve month period on any property, he or she shall issue a notice of violation to the person responsible for such property, in writing.

(b) The notice of violation shall contain:

(1) The street address or legal description sufficient for identification of the property.

(2) A concise description of the nuisance activities that exist, or that have occurred on the property;

(3) A demand that the person responsible for such property respond to the issuing authority within ten days of service of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;

(4) Offer the person responsible an opportunity to abate the nuisance activities giving rise to the violations;

(5) A statement describing that if legal action is sought, the property could be subject to closure and civil penalties and/or costs assessed up to Five Hundred (\$500.00) Dollars per day if declared a chronic nuisance property.

(c) The notice of violation shall be served upon the person responsible by one or more of the following methods: U.S first class mail; Certified mail; posting of the Property; or hand delivery.

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**SECTION 6. PENALTIES FOR VIOLATION.** Any person responsible who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceedings commenced by the issuing officer, shall pay a judgment of not more than \$500.00 dollars, plus all court costs, including reasonable attorney fees incurred by the Borough as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.

**SECTION 7. OTHER REMEDIES.**

(a) In addition to filing a civil action against the person responsible, the Borough may also file an action at law or in equity to eject the occupants from the chronic nuisance property; abate the violations; and close the chronic nuisance property.

(b) The Borough also reserves the right to close and secure the chronic nuisance property against all unauthorized access, use and occupancy for a period of twelve months. This remedy is in addition to the imposition of civil penalties and costs.

**SECTION 8. SEVERABILITY.**

If any portion of this Ordinance, or its application to any person or circumstances, is held invalid, the validity of the Ordinance as a whole, or any other portion thereof, or the application of the provisions to other persons or circumstances is not affected. If any one or more sections, subsection, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

**SECTION 9. CONFLICTS.** Any Ordinance or Resolution or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

**SECTION 10. EFFECTIVE DATE.** This Ordinance shall become effective immediately following its enactment, the same being indicated below.

ORDAINED AND ENACTED by Borough Council this 3 day of June, 2013.

ATTEST:

Anna Marie Durango  
Secretary

FREELAND BOROUGH COUNCIL:

[Signature]  
President

Approved by Mayor: [Signature]

