

**CODE OF THE BOROUGH OF MALVERN, PENNSYLVANIA / PART II, GENERAL  
LEGISLATION / Chapter 131, NUISANCES**

**Chapter 131, NUISANCES**

[HISTORY: Adopted by the Borough Council of the Borough of Malvern 12-2-1975 by Ord. No. 254 (Part 8, Ch. 2, of the 1975 Code of Ordinances). Amendments noted where applicable.]

**GENERAL REFERENCES**

**Disorderly conduct -- See Ch. 93.  
Destruction of property -- See Ch. 150.**

**CODE OF THE BOROUGH OF MALVERN, PENNSYLVANIA / PART II, GENERAL  
LEGISLATION / Chapter 131, NUISANCES / § 131-1. Definitions. [Amended  
3-21-1989 by Ord. No. 89-8]**

**§ 131-1. Definitions. [Amended 3-21-1989 by Ord. No. 89-8]**

The following words, as used in this chapter, shall have the meanings hereby respectively ascribed thereto:

**NUISANCE** -- Any use of property within the Borough, or any condition upon property within the said Borough that, other than infrequently, shall cause or result in: (1) annoyance or discomfort to persons beyond the boundaries of such property; (2) interference with the health and/or safety of persons beyond the boundaries of such property or of persons who might reasonably be expected to enter upon or be in such property; and/or (3) disturbance to or interference with the peaceful use of the property of others within the Borough, in any case taking into consideration the location of the use or condition and the nature and condition of the surrounding neighborhood. Specifically, the word "nuisance" shall include but shall not be limited to the following:

- A. Loud playing of radios, television sets, amplifiers and other sound devices so as to be heard beyond the premises from which the same shall emanate.
- B. Operating model airplanes equipped with gasoline engines on any public street or on any public ground, including any playground.
- C. Keeping or harboring of any dog or other animal or fowl which, by frequent howling or barking or other noise or odor shall annoy or disturb the neighborhood or a number of persons.

- D. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:
- (1) Open wells or cisterns.
  - (2) Open excavations.
  - (3) Unfinished buildings, foundations or other structures.
  - (4) Buildings or structures damaged or partially destroyed or in state of disrepair or danger.
  - (5) Dangerous placement of materials or equipment.
  - (6) Swimming pools not properly safeguarded.
  - (7) Stagnant water in pools in which mosquitoes, flies or insects multiply.
- E. Except in case of emergency, carrying on any building or road construction, excavation, or trenching or the operation of heavy equipment or trucks in connection therewith at any time on Sunday or a legal holiday or on any other day of the year at any time between 7:00 p.m. and 7:00 a.m. without a special permit issued by the Borough Manager. Such special permit shall be issued only if it is shown that the construction work must proceed as a matter of emergency or that it can be carried on in a manner or in such a place that the public or residents will not be annoyed or disturbed by such construction work. However, said time restrictions shall not apply to building or construction activities conducted by the owner, resident or person in lawful possession (collectively called "occupant") of the property on which the work is being done, provided that such activities do not involve road construction, excavation, paving and/or trenching or the operation of power earth moving equipment or trucks. Said time restrictions do apply to any work done by an occupant's contractors and/or subcontractors.
- F. Carrying on construction work in such a manner that excessive dirt is carried by wind onto adjacent properties or that mud is tracked or drained into streets adjacent to the project.
- G. Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the same before 5:00 p.m. of the day on which the same was deposited thereupon.
- H. Using any property or operating any business or other activity so as to permit or cause smoke, soot, cinders, fly ash, dust, mud, dirt, acid, noxious or offensive fumes, gases or odors to be discharged into the air or to be carried off the premises or to cause any water to become polluted by sewage, industrial wastes, acid or other substance or to cause a glare from lights or noise of such character as to cause annoyance to residents or interference with the normal use of adjacent properties.

- I. The planting or placing of trees, shrubs or other obstructions which would prevent persons driving vehicles on public streets from obtaining a clear view of traffic.

PERSON -- Any natural person, partnership, association, firm or corporation.

**CODE OF THE BOROUGH OF MALVERN, PENNSYLVANIA / PART II, GENERAL LEGISLATION / Chapter 131, NUISANCES / § 131-2. Unlawful to create or maintain nuisances.**

**§ 131-2. Unlawful to create or maintain nuisances.**

It shall be unlawful for any person to create, continue, cause, maintain or permit to exist any nuisance at any place within the Borough.

**CODE OF THE BOROUGH OF MALVERN, PENNSYLVANIA / PART II, GENERAL LEGISLATION / Chapter 131, NUISANCES / § 131-3. Removal or abatement of nuisances.**

**§ 131-3. Removal or abatement of nuisances.**

Any person who shall create, continue, cause, maintain or permit to exist any nuisance at any place within the Borough shall, within 10 days after notice from the Borough Council to do so, remove or abate such nuisance. If such person shall fail, neglect or refuse to abate such nuisance within such time limit, the Borough Council shall have authority, in person or by its agents and/or employees, to remove or abate such nuisance and, in so doing, shall have authority to enter upon the property of such person in default. Thereupon, the Borough Council shall collect the cost and expense of such abatement or removal from the person who created, continued, caused or maintained such nuisance and/or permitted the same to exist, such person having failed, neglected or refused to remove or abate such nuisance, with an additional amount of 10%, in the manner provided for the collection of municipal claims or by an action in assumpsit, provided that such cost and expense may be in addition to any penalty imposed under § 131-4 of this chapter.

**CODE OF THE BOROUGH OF MALVERN, PENNSYLVANIA / PART II, GENERAL LEGISLATION / Chapter 131, NUISANCES / § 131-4. Violations and penalties.**

**§ 131-4. Violations and penalties.**

Any person who shall violate any provision of this chapter shall, for each and every such

violation, upon conviction thereof, be sentenced to pay a fine of not less than \$5 nor more than \$100 and costs of prosecution or shall be sentenced to imprisonment for a period not exceeding 30 days, as now or hereafter provided by law, provided that each day's continuation of the maintenance of any nuisance, after the expiration of 10 days following the issuance of the notice referred to in § 131-3 of this chapter shall constitute a separate violation.

**CODE OF THE BOROUGH OF MALVERN, PENNSYLVANIA / PART II, GENERAL LEGISLATION / Chapter 131, NUISANCES / § 131-5. Exceptions.**

**§ 131-5. Exceptions.**

This chapter shall not be construed to be the sole means for abatement of nuisances within the Borough, and nothing shall preclude any person from proceeding individually or with other injured persons, to effect the abatement of a private nuisance. Furthermore, in the exercise of the powers herein conferred, the Borough may institute proceedings in equity.