



*Introduced by:
Mr. Justin M. Taylor, Mayor*

City of Carbondale, Pennsylvania

An ordinance, amending CHAPTER 114 of the Carbondale City Code, specifically establishing policies and procedures for Neighborhood Preservation and the Abatement of Public Nuisances.

Be it ordained, by the Council of the City of Carbondale and it is hereby ordained by and with the authority of the same as follows:

CHAPTER 114

NEIGHBORHOOD PRESERVATION & NUISANCE ABATEMENT

SECTION 114 - 1: SHORT TITLE

This ordinance shall be known and may be cited as the “*City of Carbondale Neighborhood Preservation and Nuisance Abatement Ordinance.*”

SECTION 114 - 2: FINDINGS

Carbondale City Council and the Administration find that public nuisances exist in the City of Carbondale in the operation of certain buildings, structures and dwellings, and in the use and occupation of certain property in flagrant and persistent violation of state and local laws or ordinances. Such nuisances substantially and seriously interfere with the interest of the public for enhancing the quality of life in the City, and in fostering and facilitating commerce, maintaining and improving property values, and preserving and protecting the public health, safety, and welfare. Carbondale City Council and the Administration further find that the persistence of such activities and violations is detrimental to the health, safety, and welfare of the people of the City of Carbondale, and of the dwellings and businesses thereof, and the visitors thereto.

SECTION 114 - 3: PURPOSE

It is the intent of the City of Carbondale to promote the health, safety and welfare of the citizens of the Carbondale, Pennsylvania. Part of this responsibility includes protecting neighborhoods from blighting and deteriorating conditions that have a negative impact on property values and encourages social disorder and crime. This is achieved through ordinances and by establishing a policy to guide enforcement of the ordinances contained in the Carbondale City Code.

SECTION 114 - 4: GENERAL PROVISIONS OF NUISANCE

A. As used in this ordinance, the term NUISANCE shall mean any use of property within the City of Carbondale, or any condition upon property with the City of Carbondale, which causes or results in:

1. annoyance or discomfort to persons beyond the boundaries of that property;
2. interference with the health, safety, and welfare, or persons beyond the boundaries of that property; and/or
3. disturbance to or interference with the peaceful use of property of others within the City.

B. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises shall also constitute a nuisance:

1. Open wells or cisterns;
2. Open excavations;
3. Lakes, ponds or swimming pools not properly safeguarded;
4. Stagnant water in pools or other containers in which mosquitoes, flies or other insects may multiply;
5. Weeds or uncultivated vegetation, which is over one (1) foot tall.

C. Creating or maintaining attractive nuisances, which is the leaving of a dangerous instrumentality which by its character is dangerous and attractive to children at such places frequented by children, is considered to be a nuisance.

D. It shall be unlawful to accumulate or store:

1. Junked, abandoned or discarded vehicles;
2. Junk trailers;
3. Boats;
4. Appliances or household furnishings;
5. Debris;
6. Unfinished building foundations and/or structures that create a nuisance.

SECTION 114 - 5: PUBLIC NUISANCE DEFINED

For purposes of this section, a public nuisance shall be deemed to exist whenever, through violations of any of the following provisions from separate incidents at a building, structure, dwelling or place. For the purpose of this ordinance, an incident will be defined as the execution of an enforcement action, by any City department, in response to a reported violation of the law. In addition, any property that is determined to be blighted, as defined in the Pennsylvania Urban Redevelopment Law, 35 PS §1712.1(c) is hereby declared to be a nuisance.

SECTION 114 - 6:

A. The following violations shall be deemed a nuisance immediately, and after only one (1) incident:

1. Title 18 of the PA Crimes Code – Firearms and other Dangerous Articles, 18 Pa. C.S.A. §6101 et. Seq.
2. A riot, as defined by Title 18 of the PA Crimes Code, occurs on the premises.
3. The Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-101, et. seq.
4. Title 18 of the PA Crimes Code – Gambling Offenses.
5. Title 18 of the PA Crimes Code – Prostitution Offenses.
6. Title 18 of the PA Crimes Code – Criminal Possession of Stolen Property.
7. Title 18 of the PA Crimes Code – Unlawfully Dealing with a Child.
8. Title 18 of the PA Crimes Code – Sexual Performance by a Child.
9. Title 18 of the PA Crimes Code – Motor Vehicle Chop-Shop and Illegally Obtained and Altered Property Act.
10. Title 18 of the PA Crimes Code – Possession, use, sale, or offer for sale of any alcoholic beverage, or any cigarette or tobacco products.
11. Title 18 of the PA Crimes Code – Criminal Diversion of Prescription Medications and Prescriptions
12. Title 62 – Poor Persons and Public Welfare of the PA Crimes Code – Welfare Fraud.
13. Title 18 of the PA Crimes Code – Noise.
(a) Suffering or permitting the premises to become disorderly, including suffering or permitting fighting and lewdness.
14. Title 18 of the PA Crimes Code – Falsifying Business Records.
15. Title 18 of the PA Crimes Code – Frauds / Forgery and Food Stamp Program Fraud.

16. Title 18 of the PA Crimes Code – Cruelty to Animals.
17. Non-conformance with ACT 98 – Locally adopted via File of the Council No. 6, 1995, whereby Certain Fire Losses shall transfer insurance proceeds to the City.

B. The following violations shall be deemed a nuisance after two (2) or more incidents:

Violations of the Carbondale City Code, contained in the following Chapters:

1. Chapter 56 – Animals
2. Chapter 59 – Building Construction (including Property Maintenance Code)
3. Chapter 85 – Garbage, Rubbish, Refuse
4. Chapter 96 – Housing Standards
5. Chapter 101 – Littering
6. Chapter 103 – Loitering
7. Chapter 111 – Noise
8. Chapter 142 – Street and Sidewalks
9. Chapter 161 – Vehicles, Inoperable or Unlicensed

C. Three (3) or more incidents requiring a response of the Carbondale Police Department or Code Enforcement Division.

SECTION 114 - 7: CONVICTION NOT REQUIRED

For purposes of this section, a conviction for any of the previously listed offenses in a court of competent jurisdiction shall not be required to establish that a specified violation of this ordinance law has occurred at a building, structure, dwelling or place. Instead, the City of Carbondale shall be required to prove a specified violation by a preponderance of the evidence. However, a conviction in any court of competent jurisdiction shall constitute conclusive proof of such violation of law. Conviction of an attempt to commit a violation of any of the specified provisions shall be equivalent to a conviction for the violation of the specified provision.

SECTION 114 – 8 REGISTRATION OF RENTAL UNITS; LICENSES

For the purposes of this section, the following terms shall mean:

1. Dwelling Unit – a single habitable living unit, having its own toilet, bath or shower, sink, sleeping and cooking facilities and separate access to the outside at ground level. There may more than one Dwelling Unit on a premises.
2. Rental Unit – a dwelling unit occupied by one or more tenants.

The City of Carbondale Code Enforcement Division shall have the responsibility for administering the registration of all rental units within the City.

- A. Any person who owns two (2) or more rental units in the City shall be required to register the rental units with the Code Enforcement Division.
- B. The registration form shall include, but not be limited to the name, address and telephone number of the property owner, the number of rental units and the number of occupants per unit at that particular location. The property owner shall also provide the Code Enforcement Division with the insurance information required in Section 114 – 9 of this ordinance.
- C. The Code Enforcement Division shall issue a Registration License to any person who is required to register their rental units after complying with all registration procedures and provisions as provided in Section 114 – 9.

- D. Registration Licenses must be displayed inside the rental property, within three (3) feet of the principal means of ingress and egress to the property. The failure to affix the License as required by this ordinance shall constitute a violation hereof.
- E. The maximum number of occupants shall be posted in each dwelling unit. It shall be unlawful for any person, including the tenant, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the dwelling unit. Any person violating this provision shall be subject to the penalty provisions provided herein.
- F. Any property owner of two (2) or more rental units in the City shall notify the Code Enforcement Division within thirty (30) days of any change in ownership of the property.
- G. Failure to register rental units within ninety (90) days from the date of the passage of this ordinance or within thirty (30) days following the purchase or legal conversion of a structure to a rental property shall constitute a violation of this ordinance.
- H. No Registration License shall be issued to a property owner whose property tax, garbage or sewer fee is delinquent and defined by each agency. (Receipts are required at time of registration.)
- I. Any property owner of two (2) or more rental units in the City shall agree with the terms and sign a statement which shall mandate automatic eviction of any tenant convicted of a drug related offense – regardless of where the offense occurred in the City.

SECTION 114 – 9: REGISTRATION FEES; PROOF OF INSURANCE

Upon final passage of this ordinance, all owners or operators of rental units, who shall apply for a registration license with the City of Carbondale Code Enforcement Division in accordance with Section 114 – 8 of this ordinance, shall be subject to a check and verification of the property and/or owner to assess whether or not either have any outstanding warnings, violations, or citations against them. If, at the conclusion of the verification process, no outstanding records are found, the registration application will be accepted, with proof of property liability insurance; no fee will be assessed, and the rental unit license will be granted. If, however, the property and/or owner does in fact have a pending warning, violation, or citation, registration will not be granted until compliance is achieved, and certified by the Code Enforcement Officer.

Upon notification, by the owner, that all specific corrective actions required by the Code Enforcement Officer to achieve compliance have been completed, an inspection shall be required for registration, and said owner shall be assessed a fee in the amount of fifty (\$25) for each unit to be inspected and registered.

SECTION 114 – 9.1: REGISTRATION RENEWAL; RENEWAL FEES

Renewal of rental unit licenses shall be required on an annual basis. A registration renewal fee of twenty-five dollars (\$25) shall be assessed for each license renewal – payable to the City of Carbondale Department of Finance.

SECTION 114 – 10: RESPONSIBLE AGENTS

It shall be unlawful for any residential property, including all rental properties to be owned or operated by any person residing outside the City of Carbondale, Pennsylvania, unless such owner or operator provides to the Code Enforcement Officer – the name, address and twenty-four (24) hour telephone number of a designated responsible agent. This agent shall be an individual who shall reside or maintain a place of business within the City. Designation of a responsible agent shall authorize the agent to receive and accept notices and communications necessary or deemed appropriate by the Code Enforcement Officer under the terms of all laws of the City of Carbondale, including but not limited to each chapter of the City Code, the Zoning Code, the Property Maintenance Code, and this ordinance, relative to the property in which said agent is designated. Nothing contained herein shall affect the right of the Code Enforcement Officer to submit notices and communications directly to the owner, rather than the responsible agent, or to serve process or initial and subsequent pleadings in any manner permitted by law. Such authorization and designation must be signed by the owner or operator AND the designated responsible agent.

SECTION 114 – 11: CHANGE OF ADDRESS / RESPONSIBLE AGENT

Any owner or operator who subsequently changes his or her place of residence and resides outside the City of Carbondale or changes the designation of a Responsible Agent, shall notify the Code Enforcement Officer within thirty (30) days after such change.

SECTION 114 – 12: REPEAT OFFENDERS

A. Purpose

The repeat offender component of this ordinance is designed to provide relief, via an expedited enforcement process, for neighborhoods experiencing problems with residents or property owners who repeatedly violate city ordinances and who have demonstrated an inability or unwillingness to remain a good neighbor by maintaining their respective property.

B. Definition

A repeat offender case is a newly opened case where there is a past history of violations involving the same owner / responsible agent. A repeat offender is any person whom or property which, within the last twenty-four (24) months:

1. has been issued a Certified Warning and/or;
2. has had civil proceedings or a Criminal Citation filed/initiated and/or;
3. is continuously in violation of city codes for three months or more.

The twenty-four (24) month period will commence on the latest date that any warning or violation has expired; or a civil action or criminal action has concluded.

If unusual or mitigating circumstances warrant, the City Council or their designee may exempt a responsible party from the repeat offender designation. In such cases, City Council or their designee may at their discretion, seek input from the complainant, Neighborhood Crime Watch Associations, area residents, or other staff, as appropriate, to assist in making a determination.

C. Notification

Persons who have been designated or identified as repeat offenders will proceed through a legal fast track. The discovery of a repeat offense will be cause to:

1. issue an immediate Criminal Citation (for those offenses deemed appropriate);
2. issue a Certified Warning in concert with a citation for offenses that warrant abatement; and/ or;
3. issue a criminal summons.

SECTION 114 - 13: STANDARD ENFORCEMENT POLICY

When the City of Carbondale receives a complaint – either verbal or written – from a person, the Code Enforcement Officer will process the complaint in the following manner:

A. Inspection / Initial Warning

1. If the alleged violation concerns a potential hazard which is deemed by the Code Enforcement Officer to be an imminent threat to the health, welfare or safety of the neighborhood or immediate neighbors, inclusive of open/vacant building, fire and/or health hazards, unsecured pools or other health and safety hazards, the City will respond with an immediate inspection.
2. The City of Carbondale will respond to all other complaints in order of receipt.

3. Following the initial inspection, the City will issue a letter and Initial Warning to the respective owner / responsible agent – notifying them that specific complaints have been received and an initial inspection has been conducted at their property. Included with the Initial Warning will be an explanation of the inspection findings and specific corrective actions required within ten (10) days. They will also be advised of what further action will be taken by the City if they do not comply. Finally, the owner / agent will be put on notice of the City’s Repeat Offender Policy, whereby repeat offender will receive only one official notice of ordinance violation. Repeat offenses of City ordinances may result in legal action without issuance of further notices of ordinance violation.
4. An Administrative fee in the amount of Twenty-Five (\$25) Dollars shall be assessed to the owner of each property requiring an Initial Warning. (“Blight Sweep” Initial Warnings shall be exempt from this Administrative Fee.)
5. If the property owner is a Repeat Offender, as described herein, the Administrative fee assessed for an Initial Warning shall be One-Hundred Dollars (\$100).

B. Re-Inspection / Certified Warning

1. After the ten (10) day period allotted for corrective actions has lapsed, the Code Enforcement Officer shall re-inspect the subject property. If all violations are not corrected, the Code Enforcement Officer shall issue a Certified Warning (via Certified Mail). The owner / agent will once again be advised of specific corrective action required with ten (10) days, and the process of what further action will be taken if they do not comply.
2. An Administrative fee in the amount of One Hundred (\$100) Dollars shall be assessed to the owner of each property requiring a Certified Warning.
3. If the property owner is a Repeat Offender, as described herein, the Administrative fee assessed for a Certified Warning shall be Two Hundred Fifty Dollars (\$250).

C. Re-Inspection / Criminal Citation

1. After the second ten (10) day period has lapsed, the Code Enforcement Officer shall re-inspect the subject property. Owners / responsible parties who fail to correct all violations will be subject to the issuance of a Criminal Citation by the City’s Community Prosecution Officer – to be adjudicated by a Magisterial District Judge.
2. An Administrative fee in the amount of Five Hundred (\$500) Dollars shall be assessed to the owner of each property requiring a Criminal Citation.
3. If the property owner is a Repeat Offender, as described herein, the Administrative fee assessed for a Criminal Citation shall be One Thousand (\$1,000) Dollars.
4. Any and All Court appearances by the Code Enforcement Officer shall be subject to an Administrative fee of Two Hundred Fifty (\$250) Dollars per instance.
5. Any further Civil and/or Criminal Proceedings requiring the services of the City Solicitor that may develop as a result of a Criminal Citation, including, but not limited to, a Summary Appeal or the filing a Contempt Petition, shall be subject to an Administrative fee of One Thousand (\$1,000) Dollars.

In the case of rental properties, the following general guidelines will apply:

- a. Tenants/occupants will be held responsible for items concerning routine maintenance and for personal property items.

- b. In situations where tenants/occupants have failed to fulfill their responsibility for compliance with City ordinances, owners/responsible parties may also be held accountable.
- c. In cases involving unoccupied properties, owners/responsible parties will be held accountable for all property conditions.

SECTION 114 – 13.1: WARNINGS

Upon determination that a public nuisance, as defined herein, does exist at a property, the owner of said property will receive written notification from the Code Enforcement Division. This notification is intended to advise the owner of the situation(s) present at their property, and serve as a final warning that the City is lawfully positioned to take action in order to remedy the situation(s). (This warning shall not be required for any violation as described within Section 114 – 6 (A).

SECTION 114 - 14: ENFORCEMENT AUTHORITY / CLOSURE OF RENTAL UNITS

The Code Enforcement Officer or his/her designee, including authorized representatives of the City of Carbondale, with respect to rental unit licenses issued pursuant to this ordinance, upon a determination that a public nuisance, as defined herein, does exist at a property, shall be authorized:

- 1. To order the securing of any building, structure, dwelling erection, or place in order to abate the nuisance. The Code Official shall cause the premises to be secured by any available public agency or by contract or arrangement by private persons and the costs thereof shall be charged against the real estate upon which the structure is located and shall be liened upon such real estate.
- 2. To suspend for a period not to exceed six (6) months or revoke for a period of one (1) year any rental unit license issued by the City related to the property; or
- 3. Any combination of the above.

In addition, the Code Enforcement Officer may close and secure a rental unit if:

- A. An occupant of a rental unit who has implied or actual knowledge of drug activity or is convicted in a court of competent jurisdiction of selling or distributing narcotics or other controlled substances as these terms are defined in the Pennsylvania Statutes, in the rental unit, common areas, on the premises, or with in the corporate limits of the City of Carbondale.
- B. The rental unit, common area, or the premises are condemned by the Code Enforcement Division, Fire Department, or City Engineer as structurally unsafe or unfit for human habitation.
- C. The owner has failed to designate a responsible agent, or respond to Warnings from the City of Carbondale Code Enforcement Division.
- D. The owner has failed to comply with all laws and ordinances of the City, including the Property Maintenance Code, the Zoning Code, and the Uniform Construction Code, if violations thereof are found upon inspection when an owner, after written notice of such violations has failed to come into compliance with them in such time as prescribed by the Code Enforcement Division.

Any person aggrieved by an order, from the City for closure of a rental unit, issued under this ordinance relating to housing, building, health or disruptive conduct may appeal such order with ten (10) days from the date thereof, to the City Council by filing an appeal and paying a two hundred (\$200) dollar appeal fee.

SECTION 114 – 14.1: REMEDIES

Upon closure of a rental unit or units, the owner of said property will be required to submit to a complete inspection of the affected unit or units, to be conducted within 14 days of closure. This inspection, to be completed at the owner's expense, will be performed by the City of Carbondale, and/or its designee.

An Administrative Fee in the amount of Seventy Five (\$75) Dollars shall be assessed to the owner of each property requiring a complete inspection by the City of Carbondale, and/or its designee.

A minimum Resource Replenishment Fee in the amount of Seventy Five (\$75) Dollars shall also be assessed to the owner of each property requiring a complete inspection by the City of Carbondale, and/or its designee – to cover hard costs related to the closure of the rental unit in question. (Any / All costs beyond the \$75 amount shall be payable by the property owner.)

If the property owner is a Repeat Offender, as described herein, the above referenced Administrative and Resource Replenishment Fees shall be a minimum of \$150 each.

Results of the inspection, particularly any and all property maintenance and building code violations, will be documented by the City of Carbondale and/or its designee. A copy of this record will be furnished to the property owner within 14 days of inspection.

Upon receiving a detailed listing of all violations present in the affected unit or units, it will be the responsibility of the property owner to achieve full compliance. Costs incurred to legally reach compliance, such as permits, will also be the sole responsibility of the property owner.

Eligibility for re-occupancy of units deemed a public nuisance shall be determined based on follow-up inspections by the City of Carbondale and/or its designee. Failure to adhere to recommendations found within the initial inspection report shall result in the extended closure of the unit or units in question.

Additional violations that occur on/in any closed property, discovered after the initial closure of said property, shall be addressed on an individual basis.

SECTION 114 - 15: PRESUMPTION OF OWNERSHIP

The owner of the property affected by the orders hereunder shall be presumed to be the person in whose name the real estate is recorded in the Office of the Recorder of Deeds in and for Lackawanna County, PA.

SECTION 114 - 16: LACK OF KNOWLEDGE NOT A DEFENSE

The lack of knowledge of participation in or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgages and all those persons in possession or having charge of the property as agent or otherwise, or having any interest in the property, real or personal used in conducting or maintaining the public nuisance, shall not be a defense by such owners, lessors and lessees, mortgagees, and such other persons.

SECTION 114 - 17: VIOLATIONS

- A. In addition to any other remedy provided by state, federal or local law, it shall be a violation of this ordinance for any person to use or occupy any building, structure, dwelling or place, or portion thereof, for which the rental unit license has been suspended or revoked hereunder.
- A. It shall be a violation of this ordinance for any person to mutilate or remove a posted order provided hereunder.
- B. Any person who violates Section 114-17(A) or 114-17(B) hereunder shall, upon conviction, be fined not less than three hundred dollars (\$300.00) per offense nor more than one thousand dollars (\$1,000) per offense, plus costs of prosecution and, in default of payment thereof, shall be imprisoned for not more than six (6) months, or both.

- C. Any person who violates any other provision of this ordinance shall be guilty of a summary offense, and for every such offense, shall upon conviction, be sentenced to pay a minimum fine of three hundred (\$300) dollars and a maximum fine – as allowed by law, along with all costs of prosecution, and in default of payment of fine and costs, imprisonment for not more than thirty (30) days. Provided: each day on which a violation shall exist or continue to exist, after the Certified Warning was issued by the Code Enforcement Officer, as provided in Section 114 – 13 of this ordinance, shall constitute a separate offense.

SECTION 114 - 18: INTERDEPARTMENTAL / INTERAGENCY COOPERATION

A. Purpose

The City of Carbondale will cooperate with other departments/agencies when appropriate, to further the mutual goals of nuisance abatement and public safety for the benefit of the entire community.

Upon the request of the Code Enforcement Officer, the Police Department and any other department of the City will assist and cooperate with him / her in the performance of duties related to the enforcement of ordinances.

B. Hazardous Conditions

The Mayor or City Administrator may order immediate abatement of a hazard without notice. If he/she determines the hazard to be an imminent threat to the health, welfare, and/or safety of the occupants and/or neighborhood, the Code Enforcement Officer may also request cooperation from other departments. These departments or agencies include but are not limited to: Police, Fire, Public Works, etc.

C. Reporting

1. Complainant – At the time a complaint is made, if the complainant discloses his / her name address, and phone number said complainant will be entitled to the following information:
 - a. notification of the results of an inspection within twenty-four (24) hours of said inspection,
 - b. notification of hearing dates relative to the original complaint.
2. Council – Each month the Code Enforcement Officer shall include in his/her monthly report (which shall be marked confidential) to Council a listing of all complaints received through his /her office. The report will include the following information.
 - a. address of complaint
 - b. nature of complaint
 - c. date of inspection
 - d. action after inspection
 - e. status of complaint each month until resolved

SECTION 114 - 19: SEVERABILITY

The provisions of this ordinance are severable and if any section, sentence, clause, revision, part or other portion hereof shall be held unconstitutional, illegal, invalid or otherwise ineffective, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Carbondale that this ordinance would have been adopted had such unconstitutional, illegal, invalid, or otherwise ineffective section, sentence clause, or provision, part or other portion not been included herein.

SECTION 114 - 20: REPEALER

Any ordinance or any portion of any ordinance, inconsistent with this ordinance is hereby repealed.