

**PART SEVEN  
GENERAL OFFENSES CODE**

**ARTICLE 710  
NOISE CONTROL**

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[Ed. Note: 13388, passed and signed on March 25, 1996, gave the Department of Police certain enforcement powers and deleted the reference to standards created by the American National Standard Institute. 14657 §1 11/21/08, deleted Article 711 and 712, and authorized the City and APD the ability to issue SWEEP violations for nose disturbances. 14819 passed 9/17/2010 increased the fine for repeat offenders.]

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**710.01 DEFINITIONS**

The following words, terms and phrases when used in this Article shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. (13388 §1 3/25/96)

1. **A-Weighted Sound Level:** - The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
2. **Construction Operation:** - The erection, repair, renovation, demolition, or removal of any building or structure; and the excavation, filling, grading and regulation of lots in connection therewith.
3. **Decibel (dB):** - A unit for measuring the sound pressure level, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (20 micronewtons per square meter)
4. **Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.
5. **Emergency Work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
6. **Extraneous Sound:** A sound which is neither part of the neighborhood residual sound nor comes from the source under investigation.
7. **Impulsive Sound:** Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.
8. **Motor Vehicle:** Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, go-carts, snowmobiles, amphibious crafts on land, dune buggies, racing vehicles, or motorcycles.
9. **Muffler or Sound Dissipative Device:** A device designed or used for abating the sound of escaping fluids from an engine or machinery system.
10. **Neighborhood Residual Sound Level:** That measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous and transient sounds and the sound from the source of interest.
11. **Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

12. **Noise Disturbance:** Any sound which (1) endangers or injures the safety of health of humans or animals, or (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property.
13. **Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action. (14657 §1 11/21/08)
14. **Person:** Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency, or instrumentality of a State or any political subdivision of a State. "Person" shall include the owner or operator of the noise disturbance source, the owner, tenant or manager of real property from which the noise disturbance emanates and any other individual responsible for producing the noise disturbance or allowing said disturbance to occur.
15. **Powered Model Vehicle:** Any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.
16. **Public Right-of-Way:** Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.
17. **Public Officer** means any police officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances. (14657 §1 11/21/08)
18. **Public Space:** Any real property or structures thereon which are owned or controlled by a governmental entity.
19. **Pure Tone:** Any sound which can be heard as a single pitch or a st of single pitches.
20. **Real Property Boundary:** Either (1), the imaginary line, including its vertical extension that separates one parcel of real property from another; or (2), the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling unit building.
21. **Real Property:** All land whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public right-of-way.
22. **Sound:** An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity, and frequency.
23. **Sound Level:** The weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B or C. (13388 §1 3/25/96)
24. **Sound Level Meter:** An instrument used to measure sound level. (13388 §1 3/25/96)
25. **Sound Pressure:** The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.
26. **Sound Pressure Level:** The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.
27. **Transient Sound:** A sound whose level does not remain constant during measurement.
28. **Vibration:** An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.
29. **Violation Ticket** is issued by a police officer or public officer to a person who violates a provision of this Article. (14657 §1 11/21/08 § 14998 6/6/2012)
30. **Weekday:** Any day, Monday through Friday, which is not a legal holiday.
31. **Zoning Classifications:** High Density Residential Zone R-H, Medium High Density Residential Zone R-MH, Medium Density Residential Zone R-M, Medium Low and Low Density Residential Zone R-ML and R-L, Low Density Residential Conservation Zone R-LC, Parks (P-1), Institutional and Governmental (I & G) Neighborhood Business Zone B-I, Major Business Zone B-2, Highway Business Zone B-3, Shopping Center Business Zone, B-4, Air Park Industrial Zone I-1, Limited Industrial

Zone I-2, and General Industrial Zone I-3; as specified in the "Zoning Ordinance of the City of Allentown" (Ordinance No. 11865) and its revisions and amendments. (13078 §1 9/18/91)

#### **710.02 POWERS AND DUTIES OF THE BUREAU OF HEALTH AND THE DEPARTMENT OF POLICE**

A. The noise control program established by this Article shall be administered by the Bureau of Health and the Department of Police.

##### **B. Powers and Duties of the Bureau of Health**

In order to implement and enforce this Article for the general purpose of sound and vibration control, the Bureau of Health shall have, in addition to any other authority vested in it, the power to:

1. Conduct studies and research related to noise and vibration control; public education programs regarding noise and vibration control; coordinate the activities of all municipal departments dealing with noise and vibration control; and cooperate to the extent practicable with all municipal, county, state and federal agencies involved with noise and vibration control.

2. Review the actions of other departments and request a responsible for any proposed or final standard, regulation, or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this Article.

3. Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this Article, if such projects are likely to cause sound or vibration in violation of this Article.

4. Enter upon presentation of a City issued identification card, badge or other sign of authority, and inspect any private property or place, and inspect any equipment or operation or any report or records of such equipment or operation when such equipment or operation may be reasonably suspect of being the source of a noise disturbance or the cause of excessive vibration. Such entry and inspection may be accomplished at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing or probable cause to believe that a violation of this Article may exist. Such inspections may include administration of any necessary tests.

5. Require the owner or operator of any commercial or industrial activity that may be reasonably suspect of being the source of a noise disturbance or the cause of excessive vibration to establish and maintain records (including time and duration) of equipment operations and other procedures.

6. Require the owner or operator of any noise source(s) to cease operation of that source(s) for a period not to exceed fifteen (15) minutes so that the neighborhood residual sound levels may be measured.

7. Develop and promulgate standards, testing methods, and procedures.

8. Investigate suspected violations and seek compliance with, and enforce Section 710.03(E).

##### **C. Powers and Duties of the Department of Police**

In order to implement and enforce this Article for the general purpose of sound and vibration control, the Department of Police shall have in addition to any other power vested in it, the power to:

1. Investigate suspected violations and seek compliance with, and enforce Section 710.03(C). (13078 § 9/18/91)

#### **710.03 PROHIBITED ACTS**

##### **A. Noise Disturbance Prohibited**

No person shall make, continue, or cause to be made or continued, any noise disturbance. Non-commercial public speaking and public assembly activities shall be exempt from the operation of this section.

##### **B. Enforcement**

The Department of Police shall have primary responsibility for the enforcement of Prohibited Acts under Section 710.03(C).

C. Specific Prohibitions

The following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Ordinance:

1. Radios, Tape Players, Television Sets, Musical Instruments, Electronic Amplification, Equipment and Similar Devices Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo or high fidelity equipment or similar device which produces, reproduces or amplifies sound:

a. At any time of the day in such a manner from any source as to create a noise disturbance across a real property boundary; or

b. In such a manner as to create a noise disturbance across any real property boundary when operated in or on a motor vehicle on a public right-of-way or public space; or

c. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier; or

d. At such a sound intensity that the sound creates a noise disturbance in any public area, street or sidewalk of the City; when the sound source is in any public area, street or sidewalk of the City; or (14657 §1 11/21/08)

e. At any time unless used in connection with an earplug or earphone in West Park, Trexler Park, the Rose Garden, the Arts Park, or on the grounds of Trout Hall; or (14657 §1 11/21/08)

f. At any time unless used in connection with an earplug or earphone within the boundaries of the area bounded by West Linden Street and West Walnut Street from North 4<sup>th</sup> Street to North 12<sup>th</sup> Street. (14657 §1 11/21/08)

2. Stationary non-emergency signaling devices

a. Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any hourly period.

3. Emergency signaling devices

a. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b)(i) and (ii).

b. (i) Testing of a stationary emergency signaling device shall occur at the same time of the day each time such a test is performed, but not before 7 a.m. or after 10 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds.

(ii) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 8 a.m. or after 6 p.m. The time limit specified in (i) shall not apply to such complete system testing.

c. Sounding or permitting the sounding of any exterior burglar alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within six minutes of activation.

4. Loudspeakers/Public Address Systems

Using or operating any loudspeaker, public address system, or similar device:

a. Such that sound therefrom creates a noise disturbance across a real property boundary, or

b. Between the hours of 10 P.M. and 7 A.M., the following day on a public right-of-way or public space.

5. Street Sales

Offering for sale or selling by shouting or outcry within any residential or commercial area of the City of Allentown except between the hours of 7:00 A.M. and 10:00 P.M.

6. Animals and Birds

Owning, possessing, harboring or controlling any animal or bird which barks, bays, cries, squawks or makes any other noise continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for one-half (1/2) hour or more to the disturbance of any person at any time of the day or night regardless of whether the animal or bird is physically situated in or upon private property; provided, however, that at the time the animal or bird is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.

7. Loading and Unloading

Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 10:00 P.M. and 7:00 A.M. the following day in such a manner as to cause a noise disturbance across a residential real property boundary. This section shall not apply to municipal or utility services in or about the public right-of-way.

8. Vehicle, Motorboat, or Aircraft Repairs and Testing

Repairing, rebuilding, or testing any motor vehicle, motorcycle, motorboat, or aircraft in such a manner as to cause a noise disturbance across a residential real property line.

9. Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 9:00 P.M. and 7:00 A.M. the following day so as to cause a noise disturbance across a residential real property line. Snow blowers shall be exempt from the provisions of this section. (13900 §1 4/19/01; 14150 §1 2/20/04)

10. Explosives, Fireworks, Firearms, and Similar Devices

The use or firing of explosives, fireworks, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public right-of-way, without first obtaining a variance issued pursuant to Section 710.05(B). (14657 §1 11/21/08; 14998 § 6/6/2012)

11. Powered Model Vehicles

Operating or permitting of powered model vehicles so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 9:00 P.M. and 7:00 A.M. the following day. (13900 §1 4/19/01)

12. Motor Vehicle Prohibitions

a. Exhaust System

Every motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation and no muffler or exhaust system shall be equipped with a cutout, bypass or similar device so as to cause a noise disturbance.

b. Standing Motor Vehicles

No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way of public space within 150 feet of a residential area.

c. Motor Vehicle Horns and Signaling Devices

No person shall at any time sound the horn or other warning device of a vehicle except when absolutely necessary as a warning while actually driving such vehicle.

d. Sound Trucks

No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle:

1. Such that sound therefrom creates a noise disturbance across a real property boundary; or
2. Between the hours of 9:00 P.M. and 7:00 A.M., the following day on a public right-of-way or public space. (13900 §1 4/19/01)

e. Sound Amplification Devices in Vehicles

No person, driver, or owner of any vehicle shall operate or permit operation of any sound amplifying system which causes a noise disturbance when the vehicle is on a public right-of-way or public space unless such system is being operated to request assistance or warn of a hazardous situation. This article does not apply to authorized emergency vehicles. (14657 §1 11/21/08)

D. The Bureau of Health and the Department of Police shall be responsible for the enforcement of Prohibited Acts under Section 710.03(E). (13388 §1 3/25/96)

E. Specific Prohibitions

The following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Ordinance.

1. Construction

Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

a. Between the hours of 9:00 P.M. and 7:00 A.M. the following day on weekdays and Saturdays or at any time on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary, except for emergency work. (13900 §1 4/19/01)

b. At any other time such that the sound level at or across a real property boundary exceeds 85 dB(A) unless a variance is obtained pursuant to Section 710.05(B).

c. This section shall not apply to the use of domestic power tools subject to Section 710.03(C)(9).

2. Places of Public Entertainment

Operating, playing, or permitting the operation of playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound within any place of public entertainment at a sound level greater than 90 dB(A) as read by the slow response on a sound level meter at any point that is normally occupied by a customer unless a conspicuous and legible sign is located outside such place, near each public entrance stating **"WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT"**. All places of public entertainment shall also be required to comply with Section 710.06(A), (B), and (C) of this article unless a variance is obtained pursuant to Section 710.05(B).

3. Concerts

Unless a variance is obtained pursuant to Section 710.05(c), band concerts, block parties, church carnivals, fairs or other similar activities publicly or privately sponsored and presented in any public or private space outdoors:

a. Shall not produce sound 10dB(A) in excess of the sound levels set forth in Table 1 of Section 710.06(A) of this Article; and

b. Shall be limited to ten (10) occasions in a single location within a single calendar year.

4. Vibration

Unless a variance is obtained pursuant to Section 710.05(B), operating or permitting the operation of any device that causes vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the

source if on private property or at fifty (50') feet from the source if the source is on a public space or public right-of-way. For the purpose of this Section, "vibration perception threshold" means the minimum ground-or structure-borne vibrational motion necessary to cause a person of normal sensitivities to be aware of the vibration by such direct means, but not limited to, sensation by touch or visual observation of moving objects.

#### 5. Tampering

The following acts or the causing thereof are prohibited:

a. The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any noise control device or element of design or noise label of any product.

b. The removing or rendering inaccurate or inoperative any sound monitoring instrument or device positioned by the Bureau of Health, provided such device or the immediate area is clearly labeled, in accordance with noise control regulations, to warn of the potential illegality.

c. The use of a product which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred. (13078 §1 9/18/91)

### **710.04 HEARING BOARD**

#### A. Establishment

A Hearing Board consisting of five (5) members to serve without compensation, shall be appointed by the Mayor of the City of Allentown with the advice and consent of the City Council, for the resolution of differences between the Bureau of Health or the Department of Police and persons aggrieved by the application of this Article.

#### B. Members

One member of the Board shall be a member of the City's Department of Community Development, one member shall be a professional audiologist or acoustician, one member shall be a representative of industry or manufacturing enterprise, one member shall be a lawyer and one member shall be at large (but none of the above) for his/her interest in accomplishing the objectives of this Article.

#### C. Terms

The initial appointments to the Board shall be for the following terms:

1. Community Development Representative - 5 years
2. Professional Audiologist or Acoustician - 4 years
3. Industrial Representative - 3 years
4. Legal Representative - 2 years
5. Representative at Large - 1 year

All succeeding terms shall be for a period of five (5) years. The Mayor of the City of Allentown, with the consent of City Council, shall appoint representatives to fill vacancies on the Board to complete unexpired terms. Interim appointments may be permitted to serve an additional full term on the Board.

#### D. Powers

Said Hearing Board shall have the following powers:

1. To hear appeals from and grant relief by variance or by extension in time to comply to any person aggrieved by the application of this Article. Any relief granted by the Hearing Board shall be limited to and consistent with the provisions of Section 710.05 of this Article.

2. To make rules with regard to conducting its hearings, such rules to be submitted to City Council for their advice and consent.

3. To make such findings of fact as may be required by the application of this Article.

4. To decide questions presented to it within sixty (60) days from receipt of application regarding that question. (13078 §1 9/18/91)

## 710.05 EXCEPTIONS, VARIANCES AND EXTENSIONS

### A. EXCEPTIONS

The provisions of this Article shall not apply to:

#### 1. Emergencies

The emission of sound for the purpose of alerting persons to the existence of an emergency or from the performance of emergency work.

#### 2. Municipal and Utility Services

The emission of sound resulting from the repair or replacement of any municipal or utility installation(s) in or about the public right-of-way.

#### 3. Places of Religious Worship

The sounding or permitting the sounding of any stationary bell or chime used in conjunction with places of religious worship.

#### 4. Aircraft and Airport Operations

Normal aircraft and airport operations.

#### 5. Interstate Railway Locomotives and Cars

The conduct of interstate railway transportation.

### B. VARIANCES

1. The Hearing Board shall have the authority consistent with this section, to grant variances which may be requested.

2. Any person seeking a variance pursuant to this section shall file an application with the Hearing Board. The application shall contain information which demonstrates that bringing the sources of sound or activity for which the special variance is sought into compliance with this Article would constitute an unreasonable hardship on the applicant, on the community, or on other persons. (Notice of an application for a variance shall be published in a newspaper of general circulation at least once, at least three (3) days prior to any regularly scheduled Board meeting or at least once, one day prior to any special Board meeting.) Any individual who claims to be adversely affected by allowance of the special variance may file a statement with or appear personally before the Hearing Board. The Hearing Board shall hold public hearings to decide questions regarding applications for variances presented to it.

3. In determining whether to grant or deny the application, the Hearing Board shall balance the hardship to the applicant, the community and other persons of not granting the variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, any other adverse impacts of granting the variance and the ability of the applicant to apply best practical noise control measures. Applicants for variances and persons contesting special variances may be required to submit any information the Hearing Board may reasonably require. In granting or denying an application, the Hearing Board shall place with the City Clerk a copy of the decision and the reasons for denying or granting the variance.

4. Variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of this Article regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of one (1) year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Hearing Board.

5. The Hearing Board may issue Rules and Regulations (approved by the Mayor and City Council) defining the procedures to be followed in applying for a variance and the criteria to be considered in deciding whether to grant a variance.



C. EXTENSION FOR TIME TO COMPLY:

1. Any person seeking an extension in time in which to comply shall file an application with the Hearing Board. The application shall contain information which demonstrates that bringing the source of sound or activity for which the extension is sought into compliance with this Article prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. (Notice of an application for an extension in time to comply shall be published in a newspaper of general circulation at least once, at least three (3) days prior to any regularly scheduled Board meeting or at least once, at least one (1) day prior to any special Board meeting.) Any individual who claims to be adversely affected by allowance of the extension in time to comply may file a statement with or appear personally before the Hearing Board. The Hearing Board shall hold public hearings in order to decide questions regarding applications for Extensions for Time to Comply.

2. In determining whether to grant or deny the application, the Hearing Board shall balance the hardship to the applicant, the community, and other persons of not granting the extension in time to comply against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the extension.

Applicants for extension(s) in time to comply and persons contesting extension(s) may be required to submit any information the Hearing Board may reasonably require. In granting or denying an application, the Hearing Board shall place with the City Clerk a copy of the decision and the reasons for denying or granting the extension(s) in time to comply.

3. Extension(s) in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The extension(s) in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the extension(s) shall terminate the extension(s) and subject the person holding it to those provisions of this Article for which the extension(s) was granted.

4. Application for extension of time limits specified in extension(s) in time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under subsection (2), except that the Hearing Board must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

5. The Hearing Board may issue guidelines (approved by the Mayor and City Council) defining the procedures to be followed in applying for an extension(s) in time to comply and the criteria to be considered in deciding whether to grant an extension(s).

D. APPEALS: Appeals of an adverse decision of the Hearing Board shall be made within thirty (30) days of the Board's decision to the Court of Common Pleas of Lehigh County. The decision of the Hearing Board shall remain in force until such time as a judicial order of a court of competent jurisdiction supersedes the decision of the Hearing Board.

**710.06 SOUND LEVELS BY RECEIVING LAND USE**

A. Maximum Permissible Sound Levels by Receiving Land Use

Unless a variance is obtained pursuant to Section 710.05(B), no person shall operate or cause to be operated on public or private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth in the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use. Any noise source that produces sound in excess of those levels shall constitute a noise disturbance.

**Table 1.** Permissible Maximum Sound Levels by Receiving Land Use

Receiving Land Use	Sound Level Limit 7:00 A.M. – 10:00 P.M.	Sound Level Limit 10:00 P.M. – 7:00 A.M.
Residential (Zones R-H, R-MH, R-M, R-ML, R-L, R-LC)	57	52
Parks and Institutional and Governmental (Zone P-1 and I-G)	67	62
Institutional and Governmental (Zone I and G)	67	62
Business (Zones B-1, B-2, B-3, B-4)	67	62
Industrial (Zones I-1, I-2, I-3)	77	77

B. Excessive Neighborhood Residual Sound Levels

In the event that the background sound levels in an area of suspected noise disturbance exceed the levels set forth in Table 1 above, an intrusive noise source which causes a 10 dB(A) increase in sound level above that background level shall constitute a noise disturbance.

C. Correction for Character of Sound

For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Section 710.06(A) shall be reduced 5 dB(A). (13078 §1 9/18/91)

### **710.07 REGULATIONS**

The Director of Community and Economic Development or designee may publish regulations governing the procedures and enforcement of any provisions of this Article. (14657 §1 11/21/08)

### **710.99 ENFORCEMENT**

A. Penalties

1. Any violation of the provisions of this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator.

2. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it to an adult member of the household or other person in charge of the residence at the residence of the person to be served, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

3. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

4. A public officer is authorized and empowered to cause a violation to be corrected.

5. If the City has affected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Director of Community and Economic Development or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred.

6. Violation Ticket Appeals Process

a. A person in receipt of a violation ticket may appeal to the Hearing Officer designated by the Director of Community and Economic Development or designee by filing a request within ten (10) days of receipt of the violation ticket.

b. The Hearing Officer, designated by the Director of Community and Economic Development may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts.

7. Violation Ticket Fines

a. Violation tickets shall be issued in the amount of One Hundred (\$100) Dollars. (14819 9/17/2010 § 14998 6/6/2012)

b. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction, as indicated on the violation ticket.

8. Violation Ticket Penalties

a. If the person in receipt of an one hundred (\$100) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Twenty-five (\$25) dollar penalty for days eleven (11) through twenty (20). (14819 9/17/2010; 14998 § 6/6/2012)

b. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation. (14657 §1 11/21/08; 14998 § 6/6/2012)

9. Citation Fines

a. Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Article, or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction in a summary proceeding, be ordered to pay a fine not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1000) Dollars on each offense or imprisoned no more than ninety (90) days, or both. (14819 9/17/2010; 14998 § 6/6/2012)

b. The Magisterial District Judge may order the violator to make restitution for damage to any real or personal property or for any remediation or abatement expense (14657 §1 11/21/08)

10. This Article and the foregoing penalties shall not be construed to limit or deny the right of the City or any person to such equitable or other remedies as may otherwise be available with or without process of law. (14657 §1 11/21/08)

B. Notice of Violation

In lieu of issuing a citation as provided in Section 710.99(c), the Bureau of Health or Department of Police may issue an order requiring abatement of any source or vibration alleged to be in violation of this Article within a reasonable time period not to exceed thirty (30) days.

C. Citation

Except where a person is acting in good faith to comply with a notice of violation issued pursuant to Section 710.99(B) violation of any part of this Article shall be cause for a citation to be issued by the Bureau of Health or the Department of Police.

D. Severability

If any provision of this ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

E. Immediate Threats to the Health and Welfare

1. The Bureau of Health shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (2) to continuous sound levels in excess of those shown in Table 2. If, following the issuance of such an order, the order is not obeyed, the Bureau of Health may apply to the appropriate court for an injunction to enforce the order or may undertake any and all lawful action to effect an immediate halt to continuous sound levels in excess of those shown in Table 2.

2. No order pursuant to subsection (1) shall be issued if the only persons exposed to sound levels in excess of those listed in Table 2 are exposed as a result of (a) trespass; (b) invitation upon private property by the person causing or permitting the sound; or (c) employment by the person or a contractor of the person causing or permitting the sound.

3. Any person subject to an order issued pursuant to subsection (1) shall comply with such order until (a) the sound is brought into compliance with the order, as determined by the Bureau of Health; or (b) a judicial order has superseded the Bureau's order.

**Table 2.** Continuous Sound Levels which Pose an Immediate Threat to Health and Welfare (Measured at Receiver).

Sound Level Limit (dBA)	Duration (Hours)
85	8
90	4
95	2
100	1
105	1/2
110	14 (13078 §1 9/18/91)

**ARTICLE 712  
CONSUMER FIREWORKS**

- 712.01 Legislative Intent
- 712.02 Definitions
- 712.03 In General – Restrictions on Use of Consumer Fireworks
- 712.04 Violation by Property Owner or Fireworks Owner
- 712.05 No Use of Consumer Fireworks Permitted on City Property
- 712.06 Fireworks Prohibited within 150 Feet of an Occupied Structure
- 712.99 Penalty

Cross-References

Preventing Riots, 11 Pa.C.S. § 12422  
Disorderly Conduct, 11 Pa.C.S. § 12432  
Disorderly Conduct, 18 Pa.C.S. § 5503  
Fireworks Law, 72 P.S. §§ 9401 - 9416

**712.01 Legislative Intent.**

Council finds that sudden or repeating late-night noise and visual disturbances resulting from the ignition, discharge or launch of consumer fireworks are detrimental to the physical, mental, and social well-being of City residents as well as to their comfort, living conditions, general welfare and safety, and peaceful enjoyment of their residences and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of such noise and visual disturbances within the City.

**712.02 Definitions.**

The following words and phrases when used in this Article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**“APA 87-1.”** The American Pyrotechnics Association Standard 87-1: *Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics*, 2001 edition, or any subsequent edition.

**“Consumer fireworks.”** (1) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for “consumer fireworks” as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout the City of Allentown. (2) The term does not include devices such as “ground and hand-held sparkling devices,” “novelties” or “toy caps” in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout the City of Allentown.

**“Person.”** Any individual, association, general or limited partnership, corporation, limited liability company, professional corporation, and any other similar entity, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, “person” includes the individual members, partners, officers, and managers of the association, general or limited partnership, corporation, limited liability company, professional corporation, or other similar entity.

**712.03 In General – Restrictions on Use of Consumer Fireworks.**

No person who owns, possesses or has control or supervision of consumer fireworks shall permit, make or cause the ignition, discharge or launch of such consumer fireworks within the City of Allentown between the hours of 10:00 PM and 7:00 AM, except that this Section shall not apply where the City of Allentown Fire Marshall or his designee has issued a special permit, in his discretion upon application therefor, expressly authorizing the ignition, discharge or launch of consumer fireworks for an infrequent event or activity, such as, without limitation, celebratory, memorial, festival and sporting events, during the prohibited hours.

**712.04 Violation by Property Owner or Fireworks Owner.**

It shall be a violation of this Section 712.03, for the owner or tenant of real property within the City of Allentown to permit the ignition, discharge or launch of consumer fireworks by another person on or from such property between the hours of 10:00 PM and 7:00 AM.

**712.05 No Use of Consumer Fireworks Permitted on City Property.**

It is hereby established that the City does not permit and hereby bans the ignition, discharge or launch of consumer fireworks by any person on or from City of Allentown owned property, including, without limitation, City-owned parks, buildings or structures, streets, sidewalks and rights of way unless such person upon application has secured a special permit for the otherwise banned activity from the Fire Marshall, or his designee.

**712.06 Fireworks Prohibited within 150 feet of an Occupied Structure.**

Pursuant to state law a person may not intentionally ignite or discharge consumer fireworks within 150 feet of an occupied residential structure. (15474 1§ 8/15/18)

**712.99 Penalty.**

Any person who violates any provision of this Article shall be subject to the following penalties:

- (a) First violation - A fine of not less than \$50.00 nor more than \$100.00;
- (b) Second violation - A fine of not less than \$100.00 nor more than \$300.00; and
- (c) Third and Each Subsequent Violation - A fine of not less than \$500.00 nor more than \$1,000.00, or thirty days imprisonment, or both.

**ARTICLE 715**  
**Nuisance Abatement**  
(15365 §1 04/19/2017)

- 715.01 Legislative findings.
- 715.02 Public nuisance defined.
- 715.03 Assessment of points.
- 715.04 Conviction not required.
- 715.05 Powers of the Building Code Official with respect to public nuisances.
- 715.06 Notice.
- 715.07 Nuisance Abatement Board of Appeals.
- 715.08 Presumption of ownership.
- 715.09 Lack of knowledge not a defense.
- 715.10 Removal of points.
- 715.11 Transfer of ownership.
- 715.12 Nuisance Abatement Agreement.
- 715.13 Validity.
- 715.99 Violations; penalty

**715.01 LEGISLATIVE FINDINGS.**

- (a) The City Council finds that public nuisances exist in the City of Allentown in the use and operation of certain buildings, structures, and property used for business, commercial, or industrial purposes in flagrant and persistent violation of federal, state, and local laws and ordinances, which nuisances substantially and seriously interfere with the interest of the public in enhancing the quality of life and community environment in the City, and in fostering and facilitating commerce, maintaining and improving property values, and preserving and protecting the public health, safety, and welfare.
- (b) City Council further finds that the persistence of such activities and violations is detrimental to the health, safety, and welfare of the people of the City of Allentown.
- (c) Various code and statutory provisions, including, but not limited to, those found in the Commonwealth of Pennsylvania Crimes Code, the City of Allentown's Codified Ordinances pertaining to unreasonable noise, disorderly conduct, property maintenance, and litter and weeds, are enforced by the filing of charges and citations against the persons responsible for violations of the same.
- (d) Council finds that, in spite of enforcement efforts, recurring code and statutory violations on property can lead to the creation of public nuisances on said property. Therefore, it is necessary and desirable in the public interest to enact a public nuisance abatement law in order to: eliminate local public nuisances by removing parcels of real property in the City from a condition that consistently and repeatedly violates federal, state, or local law; make property owners vigilant in preventing public nuisances on or in their property; ensure that property owners are responsible for the use of their property by tenants, guests and occupants; provide locally enforceable remedies for violations of local ordinances; and otherwise deter public nuisances.
- (e) Council further finds that the sanctions and penalties that may be imposed by the Allentown Bureau of Building Standards and Safety pursuant to this Ordinance constitute an additional and appropriate law enforcement response to the proliferation of the above-described public nuisances.
- (f) The sanctions and penalties are reasonable and necessary in order to protect the health and safety of the people of the City and to promote the general welfare.

**715.02 PUBLIC NUISANCE DEFINED.**

- (a) For purposes of this Article, a public nuisance shall be deemed to exist whenever, through violation of any of the following provisions resulting from separate documented incidents at a building, structure, property or place,
  - i. twelve (12) or more points are accumulated within a period of six (6) months, or
  - ii. eighteen (18) or more points are accumulated within a period of twelve (12) months,in accordance with the point system detailed in Section 715.03 below.
- (b) Where more than one (1) violation occurs during a single documented incident, the total points for the incident shall be the highest point value assigned to any single violation. For the purposes of this article, an incident will be defined as the execution of an enforcement action in response to a violation of the law.
- (c) This Article shall not be applicable to the properties within the City of Allentown used for residential purposes, nor for those parcels of property where an outdoor sports or entertainment venue is owned or maintained by a government entity or non-profit corporation such as a private parochial school.

- (d) In addition, any property that is determined to be blighted, as defined in the Pennsylvania Urban Redevelopment Law, 35 P.S. §1712.1(c) or the Eminent Domain Code, 26 Pa. C.S. § 205(b) is declared to be a nuisance.

715.03 ASSESSMENT OF POINTS.

- (a) The following violations shall be assigned a point value of twelve (12) points:
- i. Corrupt Organizations Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 911, 5131
  - ii. Terrorism Related Offenses under the Pennsylvania Crimes Code, §§ 2714-2717, 3302-3303, 5516
  - iii. Human Trafficking Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 3001-3025, 4305
- (b) The following violations shall be assigned a point value of eight (8) points:
- i. Kidnapping Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 2901-2910
  - ii. Sexual Assault Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 3101-3144, 6312, 6320-6321
  - iii. Uniform Firearms Act of 1995 Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 6101 *et seq.*
  - iv. Felony violations of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101, *et seq.*
  - v. Methamphetamine Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 3313, 7508.2
- (c) The following violations shall be assigned a point value of six (6) points:
- i. Gambling and Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 5512-5514
  - ii. Public Indecency Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 5510, 5901-5904
  - iii. Theft Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 3901-3935, 5111
  - iv. Forgery Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 4101-4120
  - v. Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 7701-7708
  - vi. Criminal Mischief Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. § 3304
  - vii. Offenses Involving Minors under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 6301-6311, 6313-6319
  - viii. Offenses Involving Trade or Commerce under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 7301-7331, 7361-7365
  - ix. Prohibited Offensive Weapons Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 908, 908.1
  - x. Assault Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 2701-2713, 2718
  - xi. Riot Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. § 5501
  - xii. Endangering Welfare of Children Offenses, 18 Pa. C.S. § 4304
  - xiii. Failure to Comply with Registration of Sexual Offenders Requirements Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. § 4915.1
  - xiv. Obstructing Administration of Law or Other Governmental Function Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 4904-4906.1, 4910, 4913-4914, 5101-5102, 5105, 5107-5108
  - xv. Violations of the Pennsylvania Liquor Code, Title 47 of the Pennsylvania Statutes resulting in license suspension
  - xvi. Violations of the Sexual Offenders and Sexual Predators Residency Prohibition Ordinance of the City of Allentown General Offenses Code – Article 750 of the Codified Ordinances of the City of Allentown
- (d) The following violations shall be assigned a point value of four (4) points:
- i. Violations of the Federal Water Pollution Control Act as amended (Clean Water Act), Title 33 of the United States Code
  - ii. Violations of the Protection of Environment Regulations, Title 40 of the Code of Federal Regulations
  - iii. Violations of the Clean Streams Law, 35 P.S. § 691.1, *et seq.*
  - iv. Violations of the Environmental Protection Regulations, Title 25 of the Pennsylvania Code
  - v. Misdemeanor violations of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101, *et seq.*
  - vi. Nuisance Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 6501-6505
  - vii. Cruelty to Animals Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 5511-5511.3, 7516
  - viii. Disorderly Conduct Related Offenses under the Pennsylvania Crimes Code, 18 Pa. C.S. §§ 5502-5503, 5505
  - ix. Violations of the Pennsylvania Dog Law, 3 P.S. §§ 459-101, *et seq.*
  - x. Violations of the Pennsylvania Liquor Code, Title 47 of the Pennsylvania Statutes resulting in fines greater than \$1,000
  - xi. Violations of the Noise Control Ordinance of the City of Allentown General Offenses Code – Article 710 of the Codified Ordinances of the City of Allentown
  - xii. Violations of the Disturbing the Peace Ordinance of the City of Allentown General Offenses Code – Article 730 of the Codified Ordinances of the City of Allentown
  - xiii. Violations of the Allentown Sewage Disposal Ordinance of the City of Allentown Streets, Utilities, Public Services Code – Article 940 of the Codified Ordinances of the City of Allentown
  - xiv. Violations of the Storm Sewer Ordinance of the City of Allentown Streets, Utilities, Public Services Code – Article 942 of the Codified Ordinances of the City of Allentown
  - xv. Violations of the Adult Arcades Ordinance of the City of Allentown Public Health Code – Article 1156 of the Codified Ordinances of the City of Allentown

- xvi. Violations of the Land Development Controls Ordinance of the City of Allentown Land Development Code – Article 1385 of the Codified Ordinances of the City of Allentown
  - xvii. Violations of the Stormwater Management Ordinance of the City of Allentown Land Development Code – Article 1387 of the Codified Ordinances of the City of Allentown
  - xviii. Violations of the Flood Control Ordinance of the City of Allentown Special Districts Code – Article 1393 of the Codified Ordinances of the City of Allentown
- (e) The following violations shall be assigned a point value of three (3) points:
- i. Violations of the Pennsylvania Liquor Code, Title 47 of the Pennsylvania Statutes resulting in fines less than \$1,000
  - ii. Violations of the Nuisance Abatement Ordinance of the City of Allentown General Offensive Code - Article 715 of the Codified Ordinances of the City of Allentown
  - iii. Violations of the Animals Ordinance of the City of Allentown General Offenses Code – Article 700 of the Codified Ordinances of the City of Allentown
  - iv. Violations of the Neighborhood Improvement Ordinance of the City of Allentown General Offenses Code – Section 720.09 of the Codified Ordinances of the City of Allentown
  - v. Violations of the Abandoned Refrigerators Ordinance of the City of Allentown General Offenses Code – Article 721 of the Codified Ordinances of the City of Allentown
  - vi. Violations of the Street and Sidewalk Regulations Ordinance of the City of Allentown General Offenses Code – Article 741 of the Codified Ordinances of the City of Allentown
  - vii. Violations of the Refuse or Solid Waste Collection and Disposal Ordinance of the City of Allentown Public Health Code – Article 1131 of the Codified Ordinances of the City of Allentown
  - viii. Violations of the Residential Recycling Ordinance of the City of Allentown Public Health Code – Article 1137 of the Codified Ordinances of the City of Allentown
  - ix. Violations of the Commercial Recycling Ordinance of the City of Allentown Public Health Code – Article 1139 of the Codified Ordinances of the City of Allentown
  - x. Violations of the Weeds Ordinance of the City of Allentown Public Health Code – Article 1151 of the Codified Ordinances of the City of Allentown
  - xi. Violations of the Cockroach and Vermin Control Ordinance of the City of Allentown Public Health Code – Article 1155 of the Codified Ordinances of the City of Allentown
  - xii. Violations of the Incinerators Ordinance of the City of Allentown Building and Housing Local Regulations – Article 1721 of the Codified Ordinances of the City of Allentown
  - xiii. Violations of the Trailer Parks and Trailers Ordinance of the City of Allentown Building and Housing Local Regulations – Article 1727 of the Codified Ordinances of the City of Allentown
  - xiv. Violations of the City of Allentown Property Rehabilitation and Maintenance Code:
    - a. Article 1741 of the Codified Ordinances of the City of Allentown - Administration and Enforcement
    - b. Article 1752 of the Codified Ordinances of the City of Allentown – Vacant Buildings
    - c. Article 1753 of the Codified Ordinances of the City of Allentown – Nonresidential Standards Environmental Requirements
    - d. Article 1754 of the Codified Ordinances of the City of Allentown – Exterior of Structure
    - e. Article 1755 of the Codified Ordinances of the City of Allentown – Interior of Structure
    - f. Article 1756 of the Codified Ordinances of the City of Allentown – Space, Sanitary and Occupancy Requirements
    - g. Article 1757 of the Codified Ordinances of the City of Allentown – Fire Safety
- (f) Points shall also be assessed when charges are filed on the federal level instead of the state or local level for any of the activities or violations listed.
- (g) Points may be assessed against a property, owner or tenant if the nuisance behavior occurs on the surrounding sidewalk, street, or other property and is traceable to the property, owner or tenant.
- (h) No points shall be assessed against a property, owner, or tenant for noise violations should a special events permit be obtained for the property and event occurring giving rise to any alleged noise violation.



- (i) No points shall be assessed against a property, owner, or tenant if the violation was discovered as a result of a legitimate request for emergency assistance by the owner, tenant, or guest (which does not include a paying customer, nor business invitee or licensee), if the contact was made based upon the reasonable belief of the person making the contact that intervention or emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime or emergency or if the intervention or emergency assistance was actually needed in response to the emergency. For the purposes of this Article, "emergency" shall mean threats to life, physical and personal safety, or damage to real property and vehicles.

#### 715.04 CONVICTION NOT REQUIRED.

For purposes of this section, a conviction for an offense in a court of competent jurisdiction shall not be required to establish that a specified violation of law has occurred at a building, erection, dwelling or place. Instead, the City 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 a violation of law. Conviction of an attempt to commit a violation of any of the specified provisions shall be equivalent to a conviction for a violation of the specified provision.

#### 715.05 POWERS OF THE BUILDING CODE OFFICIAL WITH RESPECT TO PUBLIC NUISANCES.

- (a) Upon information of a violation enumerated in Section 715.03 above by an issuing official, the Director of Building Standards and Safety, or his/ her designee shall serve a Notice of Assessment of Points in accordance with Section 715.06.
- (b) Upon information of a violation enumerated in Section 715.03 above by an issuing official that puts a property over a threshold enumerated in Section 715.02(a), the Director of Building Standards and Safety, or his/ her designee shall serve a Notice of Determination of Public Nuisance in accordance with Section 715.06.
- (c) In addition to any other enforcement procedures established elsewhere in federal, state or local law, upon a Determination of Public Nuisance, the Director of the Bureau of Building Standards and Safety or his/ her designee shall be authorized to seek a court ordered injunction to have the property be closed immediately.
- (d) Upon one of the following events occurring: i) a court ordering the closing and/or securing of any building, structure, erection, property or place in order to abate the nuisance; ii) the expiration of the time to appeal a Notice of Determination of Public Nuisance and no appeal being filed; iii) the failure to remit the required bond along with such appeal; or iv) such appeal is unsuccessful, the Director of Building Standards and Safety or his/ her designee will cause the revocation of a Certificate of Occupancy and/ or any City of Allentown issued license.
  - i. The Director or his/ her designee is authorized to cause the premises to be closed and/or secured by the City or by contract or arrangement with private persons.
  - ii. The costs of closing and/or securing the premises, including any reasonable administrative fees, shall be charged against the real estate upon which the structure is located and shall be a lien upon said real estate.
- (e) If the property is a multi-unit building, the Director or his/ her designee shall only secure the offending unit or units and not the entire building.
- (f) The Director or designee shall maintain on the City website and/or in written form, available for public view, a current list of all properties against which points have been assessed, the dates that points were assessed, the number of points against the property, an indication of points that are under review for reconsideration or under appeal to the Board of Appeals, and the appropriate office to contact for detailed information on the alleged violations.
- (g) The length of time that the premises are closed and/or secured pursuant to this Section shall be for one year unless otherwise determined by court order. Upon expiration of the time period for closure, owner or tenant must reobtain all necessary certificates and licenses before reopening, which may include any and all necessary inspections.
- (h) If a building, structure, erection, property or place is ordered closed and/or secured pursuant to this Section, such order shall be posted at the building, structure, erection, property or place where the public nuisance exists. If the property is a multi-unit building, such order shall be posted on the offending unit or units. The order shall also be served upon the property owner pursuant to Section 715.06.
- (i) Points shall continue to accrue for violations listed in Section 715.03 even if the property has been ordered closed pursuant to this Section.

#### 715.06 NOTICE.

- (a) Points become officially assessed against a property when the City serves a Notice of Assessment of Points as provided in subsection (c) to the property owner and/ or tenant.
- (b) Whenever the Director of the Bureau of Building Standards and Safety or his/ her designee is informed that there exists a violation of law enumerated in Section 715.03 above, or that a property or premises has accumulated

enough points to be determined a public nuisance as defined herein, he/she shall serve Notice as provided in subsection (c) below.

- i. The Notice shall specify the type of nuisance being maintained or permitted on the premises, summarize the evidence, including
    - a. advising the property owner and any lessees of the violation(s) that are alleged to have occurred on the property and the date of the violation(s),
    - b. the points that were assessed to the property as a result of the violation(s),
    - c. the total amount of points accumulated in the past eighteen (18) months,
    - d. inform the owner and any lessees that failure to abate the violation(s) may subsequently lead to the closure and securing of the property,
    - e. if enough points are accumulated, the property is determined to be a public nuisance and the City of Allentown will begin the process to close the property to abate such public nuisance, and
    - f. inform the owner and any lessees of his/her/ their right(s) to appeal such Notice of Assessment of Points or Notice of Determination of Public Nuisance to the Nuisance Abatement Board of Appeals.
  - ii. In addition, with respect to any appeal, the Notice shall advise the owner that, should the owner take all reasonable and available steps to terminate the public nuisance activity, including immediately repairing the property if the property is in violation of any local or state codes or commencing an eviction action to terminate the lease of any tenant who is permitting or maintaining the public nuisance activity on the property, the City and the Nuisance Abatement Board of Appeals will positively consider such remedies taken by the owner when determining whether to remove the initial assessment of points from the property.
- (c) Method of Service: Such Notice shall be deemed to be properly served if a copy is:
- i. Delivered personally;
  - ii. Sent by certified and/ or first-class mail addressed to the last known address; or
  - iii. If personal service cannot be achieved and the Notices are returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in, on or about the structure affected by such notice.
- (d) A property owner or tenant may, within ten (10) business days of the date of the Notice of Assessment of Points or Notice of Determination of Public Nuisance, appeal in writing to the Nuisance Abatement Board of Appeals challenging the assessment of points. The written appeal shall be mailed or delivered to:

City of Allentown Nuisance Abatement Board of Appeals  
c/o Director of Building Standards and Safety  
435 Hamilton Street  
Allentown, PA 18101

#### 715.07 NUISANCE ABATEMENT BOARD OF APPEALS.

- (a) There is hereby established a Nuisance Abatement Board of Appeals.
  - i. The Nuisance Abatement Board of Appeals shall consist of five (5) members- a member of City Council, a City employee from the Department of Community and Economic Development, a City employee from the Allentown Police Department, a private citizen owning a business with the City of Allentown, and a private citizen residing within the City of Allentown -who are nominated by the Mayor and the nominations are confirmed by the City Council.
  - ii. The initial terms of the members of the Nuisance Abatement Board of Appeals are as follows:
    - a. City employee in the Department of Community and Economic Development- 4 years
    - b. Member of City Council- 3 years
    - c. City employee of the Allentown Police Department- 3 years
    - d. Private citizens business owner and an alternate citizen business owner - 2 years (15389 1§ 8/16/17)
    - e. Private citizen resident and an alternate citizen resident - 2 years (15389 1§ 8/16/17)
    - f. Board members consisting of a City Employee from the Department of Community and Economic Development, the Allentown Police Department and a City Council Member must each designate an alternate board member. This alternate is to appear on their behalf in case they must excuse themselves from hearing a specific case due to an immediate conflict. Two permanent alternates

shall be named to substitute for the private citizen members of the Board, in the event of a conflict."  
(15389 1§ 8/16/17)

- iii. After the initial terms have expired, members of the Nuisance Abatement Board of Appeals shall be appointed for terms of four (4) years.
  - iv. After all members have been appointed, the Nuisance Abatement Board of Appeals shall hold an organizational meeting within thirty (30) days to appoint a Chair and Vice-Chair.
  - v. Thereafter, an organizational meeting shall be held annually.
- (b) It shall be the responsibility of the Nuisance Abatement Board of Appeals to hold hearings to review all appeals of assessments of points or determinations of public nuisance for properties.
- (c) Hearings shall occur at monthly public meetings. Monthly meetings may be cancelled if there are no pending appeals as of ten (10) days prior to the scheduled meeting.
- i. All hearings for appeals of determinations of public nuisance shall be scheduled within ninety (90) days of the date of service of the appeal.
  - ii. All hearings for appeals of assessment of points shall occur within ninety (90) days of the date of service of the appeal.
  - iii. Notice of the date, time and place of the hearing shall be served upon the Appellant and the Bureau of Building Standards and Safety pursuant to Section 715.05(c) above.
- (d) The Nuisance Board of Assessment Appeals shall issue its decision to either grant or deny the appeal within five (5) business days of the date of the hearing. Notice of the decision shall be served upon the Appellant and the Bureau of Building Standards and Safety pursuant to Section 715.05(c) above.
- (e) Failure to hold an appeal hearing and/ or issue a decision within the allotted time shall result in the appeal being granted, unless the Board and the property owner or tenant agree otherwise. (15389 1§ 8/16/17)
- (f) All hearings shall be conducted pursuant to the requirements of the Local Agency Law (Subchapter B of Chapter 5 and Subchapter B of Chapter 7 of Title 2 of the Pennsylvania Consolidated Statutes).
- i. At its first and annual organizational meetings, the Nuisance Abatement Board of Appeals shall decide whether to engage stenographic services to record hearings for the ensuing year.
  - ii. An appellant has the right to retain the services of a court reporter or stenographer for the hearing at the appellant's sole cost should such service not be provided by the Nuisance Abatement Board of Appeals.
- (g) Any Appellant whose appeal of a notice of determination of public nuisance is denied by the Nuisance Abatement Board of Appeals may continue to remain open during a pendency of appeal with the Lehigh County Court of Common Pleas by posting a bond of \$5,000. (15389 1§ 8/16/17)
- (h) Any and all posted bond money shall be returned to the Appellant upon the completion of the appeal to the Nuisance Abatement Board of Appeals and any appeal to the Lehigh County Court of Common Pleas so long as no further enumerated violations occur during the appeal period. Should a violation occur during the appeal period, any posted bond money shall be forfeited to the City of Allentown.

#### 715.08 PRESUMPTION OF OWNERSHIP.

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

#### 715.09 LACK OF KNOWLEDGE NOT A DEFENSE.

The lack of knowledge of acquiescence or participation in or responsibility for a public nuisance or violation of a closure under this Article on the part of the owners, lessors, lessees, mortgagees 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. Owners, lessors and lessees, mortgagees, and such other persons are responsible for their guests, invitees, licensees, and customers.

715.10 REMOVAL OF POINTS.

Points shall be removed from a property twelve (12) months after violation occurred.

715.11 TRANSFER OF OWNERSHIP.

- (a) It shall be unlawful for the owner of any building, structure, dwelling, erection or place that has points currently assessed to it pursuant to this article to sell, transfer, mortgage, lease or otherwise dispose of the premises to another individual or entity until the owner has furnished the grantee, transferee, mortgagee or lessee with a true copy of any Notices of Assessment of Points or Notices of Determination of Public Nuisance issued by the City pursuant to this Article within the last two years, and with any written decisions issued by the Board within the last two years declaring the premises to be a public nuisance.
- (b) The owner shall furnish to the Bureau of Building Standards and Safety a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notices of points assessments, notices of closure, or Board decisions and fully accepting the responsibility without condition for making the necessary repairs or taking such necessary actions so as to prevent the premises from becoming or remaining a public nuisance.
- (c) Within thirty (30) days of the date of Agreement of Sale, the prospective buyer may appeal to the Nuisance Abatement Board of Appeals to have the property reopened or to have points removed from the property upon good cause shown. A hearing shall be held within sixty (60) days of such petition.

715.12 NUISANCE ABATEMENT AGREEMENT.

At any time and at the City's discretion, the City may enter into a written Nuisance Abatement Agreement with the property owner wherein the property owner agrees to take specific actions, as approved by the City, to abate, terminate or eliminate the public nuisance activity on the property in exchange for the City of Allentown reserving its rights and agreeing not to initiate any of its enforcement remedies pursuant to Section 715.05 of this article against the property during the term of the Agreement, provided that the property owner complies with the terms and conditions of the Nuisance Abatement Agreement and the conditions or violations causing the public nuisance activity on the property are abated, terminated or eliminated.

715.13 VALIDITY.

If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

715.99 VIOLATIONS; PENALTY.

- (a) In addition to any other remedy provided by state, federal or local law, it shall be a violation of this article for any person to use or occupy any building, erection, dwelling or place, or portion thereof, which has been closed or secured pursuant to Section 715.05 above. Each date of use or occupancy shall be considered a separate offense.
- (b) It shall be a violation of this article for any owner to permit or fail to prevent any person from using or occupying any building, erection, dwelling, place or portion thereof, which has been closed or secured pursuant to Section 715.05 above. Each date of use or occupancy shall be considered a separate offense.
- (c) It shall be a violation of this article for any person to mutilate or remove a posted order provided hereunder.
- (d) Any person who is found to be in violation of this Section shall be sentenced to pay a fine of not less than one thousand dollars (\$1000.00) per offense nor more than two thousand five hundred dollars (\$2,500) per offense, plus costs of prosecution, or to imprisonment for not more than ninety (90) days, or both.