

**BOROUGH OF PENNS GROVE
MAYOR AND COUNCIL**

ORDINANCE NO. 2018-3

AN ORDINANCE AMENDING CHAPTER 395 OF THE CODE OF THE BOROUGH OF PENNS GROVE

WHEREAS, Chapter 395 of the Code of the Borough of Penns Grove involves Streets and Sidewalks within the Borough of Penns Grove; and

WHEREAS, the Borough would like to amend this Chapter and expand it to include parking areas; and

WHEREAS, the Mayor and Council of the Borough of Penns Grove have reviewed the attached revisions to Chapter 395 of the Code of the Borough of Penns Grove which involves parking areas within the Borough of Penns Grove and would like to incorporate those revisions into the Code of the Borough of Penns Grove.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Penns Grove that:

Chapter 395 of the Code of the Borough of Penns Grove shall be revised as follows:

1. The Title of Chapter 395 shall be changed to "Streets, Sidewalks and Parking Areas."
2. Article VII entitled "Parking Areas" shall be added to the Chapter 395 and shall be as follows:

§ 395-38. Definitions.

COMMERCIAL PREMISES

A building or buildings, or any part thereof, and the lot or tract of land upon which the building or buildings are situated where commercial or general business or industrial or manufacturing or professional office activity or any nonresidential use takes place and is permitted by the zoning provisions of the Borough of Penns Grove.

One or more buildings or parts thereof designed or existing for the temporary or permanent residence, abode or habitation of 10 or more families. "Multifamily dwellings" shall include but not be limited to high-rise or garden apartments, townhouses, tenements, hotels, motels and rooming houses containing 10 or more units.

NUISANCE

(1) Any common law nuisance or as provided by the laws of the State of New Jersey or ordinances of the Borough of Penns Grove.

(2) Any physical condition dangerous to human life or detrimental to the health of persons on or near the premises where the condition exists, including but not limited to the existence or maintenance of any holes, excavations, breaks, projections,

obstructions, sagging, potholes and cracks, accumulations of ice, snow or water and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas and other parts of the exterior of the premises which are intended for use by persons or which are accessible to or likely to be used by such persons.

OCCUPANT

Any person having actual possession of the premises or any part thereof.

OPERATOR

Any person having charge, care or control of the premises or any part thereof, with or without the consent of the owner.

OWNER

Any person, alone or jointly or severally with others, who has legal or equitable title to any premises with or without actual possession thereof or who has charge, care or control of any premises, as owner or agent or representative of the owner. Any person who is a lessee and sublets or reassigns any part of any premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of premises sublet or assigned by said lessee.

SHOPPING CENTER

One or more buildings or parts thereof designed or existing as a unit occupied or to be occupied by one or more businesses for the conduct of retail sales, with parking spaces.

§ 395-39. Scope and application.

All commercial premises, shopping centers and multifamily dwellings and any building situated thereon in the Borough of Penns Grove shall comply with the provisions of this Article whether or not such building shall have been constructed, altered or repaired before or after the enactment of this article. Where there is a mixed occupancy with commercial and other uses on the same premises, all such uses shall be nevertheless regulated by and subject to the provisions of this article.

§ 395-40. Maintenance and repair.

The owner, operator and occupant shall maintain and repair the paths, walks, driveways, parking lots and parking areas, loading and unloading areas, and shall keep aisles and accessways in good repair, free of safety hazards and unsanitary conditions, including but not limited to the conditions referred to in the definition of "nuisance." All lighting, bumpers, markings, signs, drainage and landscaping shall be similarly kept in workable and safe and good condition. All holes and excavations, breaks, projections, obstructions, sagging, potholes and cracks shall be filled and repaired by the owner, operator and occupant who shall take reasonable steps to discover, remove and abate any such hazards or conditions which may exist on the premises.

§ 395-41. Procedure for abatement of nuisance.

A. Inspection. Whenever any nuisance is found on the premises or a condition exists in violation of this chapter and said nuisance or condition is brought to the attention of the Borough of Penns Grove, an official of the Borough of Penns Grove shall examine and inspect the area in question.

B. Notice and hearing.

(1) If said violation or nuisance is found to exist, the appropriate official of the Borough of Penns Grove shall order the owner, operator or occupant to correct the condition or to remove and abate the nuisance by notice in writing which shall be served on the owner, operator or occupant. Said notice shall contain the following items:

(a) A description of the property affected, sufficiently definite to identify the property.

(b) A description of the nuisance or condition.

(c) A statement that, unless the condition is corrected or the nuisance abated within 30 days after the service of such notice, the Borough may proceed to correct the condition or abate the nuisance.

(d) A statement that said entity has the right to request a hearing within said thirty-day period, at which time he may present his case in the manner hereinafter specified.

(2) The owner, operator or occupant may, within said 15 days of receipt of the notice, file with the Clerk of the Borough of Penns Grove a demand in writing for a hearing, and the Borough of Penns Grove shall thereupon fix the time and place of said hearing. At the hearing, the entity shall show cause why such condition should not be corrected or the nuisance abated. The entity shall be heard in person or be represented by an attorney at law and may produce evidence in his behalf.

C. Correction. If no hearing is demanded and the condition is not corrected and the nuisance not abated within the aforementioned 30 days, the Borough shall determine whether to utilize Borough personnel or to contract for the correction of the condition or the abatement of the nuisance. In the event that a hearing is requested and said hearing is held, the Borough of Penns Grove shall determine whether the condition exists in violation of this article or whether a nuisance exists and determine the manner of correction or abatement. Notice of said determination shall be given to the entity or the attorney at law who appeared on his behalf.

D. Lien and collection. Whenever any such abatement or correction is undertaken and completed by the Borough of Penns Grove, an accurate account of the costs and expenses therefor shall be prepared and maintained. Pursuant to N.J.S.A. 40:48-2.12f, the governing body of the Borough of Penns Grove, by resolution, shall determine the amount of the costs and expenses which shall be charged against the premises, said amount to be a lien against the premises as provided in said statute and shall be collectible as provided in N.J.S.A. 40:48-2.12e. The collection remedy shall be in addition to the right to access a municipal lien against said premises.

E. In addition to any other remedy available under this Ordinance, the Borough of Penns Grove shall also have the right to file a complaint, in Municipal Court, for any violation of this Article. The Borough shall be under no obligation to correct any violation or nuisance.

§ 395-42. Violations and penalties.

Any person, firm or corporation violating any provision of this article shall be punishable by one or more of the following: imprisonment in the county jail for a term not exceeding 90 days, a fine not exceeding \$2,000, or a period of community service not exceeding 90 days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons or entities allowing or permitting the continuation of the violation may be punished for each separate offense.

Attest:

Sharon R. Williams
Sharon R. Williams, Municipal Clerk

John A. Washington
John A. Washington, Sr., Mayor

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on Feb. 6, 2018 and will be considered for final passage at a meeting to be held by the Mayor and Council at Borough Hall, Broad Street and State Street, Penns Grove, New Jersey at 7:00 p.m. on February 20, 2018 at which time any interested person will be given an opportunity to be heard.

INTRO: February 6, 2018

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Johnson			X			
Oliver			X			
Pasquale			X			
Poindexter			X			
Scott		X	X			
Washington, Jr.	X		X			

Sharon R. Williams
Sharon R. Williams, Municipal Clerk

FINAL: February 20, 2018

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Johnson						
Oliver						
Pasquale						
Poindexter						
Scott						
Washington, Jr.						

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on the 6th day of February, 2018 and was considered for final passage and adopted, after a public hearing was held by the Mayor and Council at Borough Hall, 1 State Street, Penns Grove, New Jersey at 7:00 p.m. on February 20, 2018.

Sharon R. Williams
Sharon R. Williams, Municipal Clerk