

ORDINANCE NUMBER 2004-10

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PENN TOWNSHIP, PERRY COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES ON PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP; PROVIDING FOR THE REMOVAL THEREOF BY THE TOWNSHIP; AND FIXING PENALTIES FOR VIOLATION.

WHEREAS, The Board of Supervisors deems it to be in the best interests and general welfare of the citizens and the residents of Penn Township to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which causes injury, damage, hurt, inconvenience, annoyance, or discomfort, to others in the legitimate enjoyment of their rights of person or property; and

WHEREAS, Section 702 of the Second Class Code, 1933, May I, P.L. 103, Art. VII, s 702, cl. Xii, as amended, 53 p.s. s 65712, authorizes townships of the second class to prohibit nuisances, to remove same, and to impose penalties therefore.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, and it is enacted and ordained, by the Board of Supervisors of Penn Township, Perry County as follows:

SECTION I: DEFINITIONS

For the purposes of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

- A. Abandoned vehicles - A vehicle (other than a pedal cycle):
1. That is inoperable and is left unattended on public property for more than 48 hours;
 2. That has remained illegally on public property or public highway right-of-way, for a period of more than 48 hours;
 3. Without a valid registration plate or certificate of inspection or title left unattended on or along a public right-of-way; or that has remained on private property with or without the consent of the owner or person in control of the property for more than 48 hours.
 4. Conditions under which vehicles are not considered abandoned.

- a. Vehicles and equipment used, or to be used, in construction, and/or in the operation or maintenance of public facilities, and/or private property which are left in a manner which does not interfere with the normal movement of traffic and does not create a nuisance as defined in this ordinance;
 - b. Vehicles and equipment stored in a garage on the property or completely covered with a custom cover on the property;
 - c. A licensed auto-repair garage actively-repairing a vehicle for a period of time not to exceed six (6) months.
- B. Board of Supervisors - The Board of Supervisors of Penn Township, Perry County, Pennsylvania.
- C. Dangerous Structure - Any building which has deteriorated to the state where it is dangerous and unsafe for human occupancy, constitutes a fire hazard, endangers surrounding buildings, shelters rats or other vermin, or endangers the safety of children playing thereabouts.
- D. Farming - Any parcel of land containing ten (10) or more acres of land, which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. Such term includes necessary farm structures within the prescribed limits and the storage of equipment used, but excludes the raising of furbearing animals, riding academies, livery or boarding stables and dog kennels.
- E. Garbage - Animal, vegetable or organic waste, cans and plastics from the handling, preparation, cooking and consumption of food, to include all Styrofoam and any other packaging
- F. Junk Vehicles - Any motor vehicle, valueless except as junk.
- G. Nuisance - The unreasonable, unwarrantable or unlawful use of public or private property which has the potential to cause or causes injury, damage and hurt and/or abuses inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of his reasonable rights of person or property.
- H. Owner - A person owning, leasing, occupying or having charge of any premises or vehicle within the Township.
- I. Person - Any natural person, firm, partnership, association, corporation, company or organization of any kind.
- J. Junk - Any discarded material or article which can not be used for its original use, shall include, but not be limited to, scrap metal, scrapped, abandoned or junked motor vehicle, machinery, equipment, paper, glass, containers, and structures, including used lumber, used plumbing supplies and other used building materials.

K. Township - The Township of Penn, Perry County, Pennsylvania.

SECTION 2: NUISANCES DECLARED ILLEGAL

Nuisances, including but not limited to the following, are hereby declared to be illegal, when not in accordance with Penn Township Ordinance No. 2004-10 and upon confirmation by the Board of Supervisors:

- A. Storing or accumulating the following:
1. Garbage or rubbish.
 2. Junk material including but not limited to unused or abandoned machinery and equipment.
 3. Other junk including but not limited to any and all forms of waste and refuse of any type of material, including scrap metal, glass, appliances industrial waste and other salvageable materials.
- B. It shall be unlawful to store, or deposit any abandoned or junked vehicle or part thereof, in or on any highway or public or private property, vacant or occupied, within Penn Township.
- C. Draining of flow, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, wash stands, lavatories, water closets, swimming pools, privies or cesspools of any kind or nature whatsoever, or any other foul or offensive water or fouled or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley in the Township into or upon any said highway, road, street, avenue, lane or alley; or from any property into or upon any adjoining property.
- D. Draining or flowing, or allowing to drain or flow, any water or drainage from a dwelling or structure situated upon a property along any public highway, road, street, avenue, lane or alley in the Township into or upon the cart way or traveled portion or any said highway, street, road, avenue, lane or alley, except where provision has been made in said cart way or traveled portion for said drainage by means of a drainage ditch, rain gutters or by any other means.
- E. Burning garbage, recyclable plastics, glass, newspaper, aluminum cans, tires, or anything that produces and/or emits toxic fumes.
- F. Maintaining or causing to be maintained any dangerous structure, including but not limited to abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.
- G. No existing structure will be permitted to be burned without proper permits as required in

D.E.R. PA Code, Title 25, Part 1, Subpart C Article III, Chapter 129.

- H. Permitting or allowing any well or cistern to be or remain uncovered.
- I. Pushing, shoveling, or otherwise depositing snow upon the cart way or traveled portion of any public highway, road, or street which is maintained by this Township or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.
- J. Allowing or permitting any excavation, material-excavated, or obstruction, on or adjoining any highway, street, or road, to remain opened or exposed without the same being secured by a warning and safety devices such as: lights or reflective materials, barricade, temporary fence, or other protective materials.
- K. No vehicles, fences, trees, pines, brush, hedges, shrubbery, or any other solid object shall block the view of an adjacent driveway onto a public or private right-of-way. All such solid objects shall be located a sufficient distance from the roadway to permit a clear sight measured 37 1/2 feet in both directions from the intersection on the roadway and 10 foot back onto the driveway from the edge of roadway.
- L. Other activities can be conducted if the activity is not prohibited in this ordinance or doesn't create a nuisance as defined in this ordinance.

SECTION 3: WRITTEN NOTICE TO VIOLATORS

Whenever a condition constituting a nuisance is permitted or maintained, the Penn Township Board of Supervisors shall cause written notice to be served upon the owner in one of the following ways:

- A. By making personal delivery of the notice to the owner.
- B. By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides; but if no adult member of the family is found, then to an adult person in charge of such residence.
- C. By fixing a copy of the notice to the door at the entrance of the premises in violation.
- D. By mailing a copy of the notice to the last known address of the owner by certified mail.
- E. By publishing a copy of the notice in the local newspaper once a week for three successive weeks. Such notice shall set forth in what respects such condition constitutes a nuisance, and whether removal is necessary and required by the Township, or whether the situation can be corrected by repairs, alterations or by fencing or boarding or in some way confining and limiting the nuisance. Such notice shall require the owner to commence action in accordance with the terms thereof within twenty-one (21) days and thereafter to comply fully with its terms with reasonable dispatch, all material to be supplied and work done at the owner's expense; provided, however, that if the violation

charged is under Section 2 (E), (G), (H), (I) or (J), and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

SECTION 4: PENALTY FOR VIOLATION

If the owner after receiving due notice refuses to comply with the terms thereof:

- A. He shall be guilty of a violation of this ordinance and shall upon conviction thereof, pay a fine of not more than three-hundred (\$300.00) dollars and the costs of prosecution, shall be imprisoned for not more than ten (10) days; provided, each day's continuance of a violation shall constitute a separate offense.
- B. The Penn Township Board of Supervisors may direct the removal, repairs or alterations, as the case may be, to be done by the Township and the cost thereof with a penalty of ten (10%) percent may be collected from the owner of the premises by an action of assumpsit's or may file a municipal claim or lien therefore against such real estate.
- C. Penn Township by means of a complaint in equity may compel the owner to do so or seek such other relief as such court is empowered to afford.

SECTION 5: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 6: EFFECTIVE DATE

This ordinance shall become effective five (5) days after the adoption thereof. All residents of the township with noncompliance with this ordinance shall comply with the terms of the Ordinance within a two (2) year period.

The following shall be exempt from Section 2. A. 2

- a. Full time farmers.
- b. A person utilizing fifty (50) percent of the total tillable acreage in a farming operation. The equipment stored-on the property must be used to support the farming effort conducted on the property.

ENACTED AND ORDAINED this ____ day of ____, 2004, in lawful session duly assembled.

Penn Township Board of Supervisors

Chairman

Vice-Chairman

Supervisor

I hereby certify the foregoing to be an exact copy of an Ordinance adopted by the Supervisors of the Township of Penn, Perry County, Pennsylvania, at a regular meeting of the Board on _____, 2004.

ATTEST:

Secretary