

ORDINANCE NO. 3 OF 1986

AN ORDINANCE REGULATING THE CARRYING OUT OF CERTAIN TYPES OF BUSINESS AND PERSONAL ACTIVITIES WHICH ARE HEREBY DECLARED TO BE A NUISANCE.

BE IT ORDAINED by the Board of Commissioners of the Township of Newport, County of Luzerne, Commonwealth of Pennsylvania, as follows:

Section 1. DEFINITIONS.

For purposes of this Ordinance, the word "nuisance" is hereby defined as any person, party, entity, corporation, partnership or individual doing an unlawful act, or omitting to perform a duty or suffering or permitting a condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others; or
- (2) Offends decency; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs or tends to obstruct or render dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Section 2. ILLUSTRATIVE ENUMERATION

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Weeds, grass or other rank vegetation to a height greater than six (6) inches on the average;
- (2) Accumulation of dead weeds, grass or brush;
- (3) Poison ivy, ragweed or other poisonous plants, or plants detrimental to health growing on any lot in such a manner that any part of such vegetation shall extend upon, overhang or border any public place or such as to allow seed, pollen or other poisonous particles or emanating therefrom to be carried through the air into any public place;

- (4) Trees, shrubs, plants or vegetation which overhangs any sidewalk or street or which grows thereon in a manner as to obstruct or impair the free and full use of the sidewalk or street by the public, including the interruption or interference with the clear vision of pedestrians or persons operating vehicles thereon;
- (5) Trees, shrubs, plants or vegetation which interferes with the electrical poles, wires, pipes or fixtures, or the roots of which interfere with or cause the surface of the street, sidewalk or curb to be upheaved or disturbed;
- (6) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;
- (7) Any condition which provided harborage for rats, mice, snakes and other vermin;
- (8) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of the people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (9) All unnecessary or unauthorized noises and annoying vibrations including animal noise and any noises and vibrations from any business activity involving digging, drilling, excavating or strip mining or any activity in conjunction therewith upon any lands public or private which caused disturbances and annoyances in residential areas between the hours of 11 o'clock p.m. and 7 o'clock a.m.
- (10) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (11) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- (12) The pollution of any public well or cistern, stream, lake, canal or body or water by sewage, dead animals, creamery, industrial wastes or other substances;
- (13) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;
- (14) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
- (15) Dense smoke, noxious fumes, gas, soot or cinder, in unreasonable quantities;

(16) Using, operating or permitting to be played, used or operated, any radio, receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing in which such machine or device is operated and who are involuntary listeners thereto, shall be deemed a violation of this Chapter. The operation of any such set, instrument, phonograph, machine or device between the hours of 11 o'clock p.m. and 7 o'clock a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of the violation of this section.

Section 3. PROHIBITED

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

Section 4. NOTICE TO ABATE

Whenever a nuisance is found to exist within the Township, the health officer or some other duly designated officer of the Township shall give ten (10) days written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

Section 5. CONTENTS OF NOTICE

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- (1) An order to abate the nuisance;
- (2) The location of the nuisance, if the same is stationary;
- (3) A description of what constitutes the nuisance;
- (4) A statement of acts necessary to abate the nuisance;
- (5) A statement that if the nuisance is not abated as directed within the prescribed time, the Township reserves the right to abate such nuisance and assess the cost thereof against such person.

Section 6. SERVICE OF NOTICE

Proper service of any notice under this chapter shall be by personal service upon the person responsible for the nuisance or the owner authorized property management agent, or occupant of the premises. Alternatively, such service may be made to such persons by registered mail and return receipt requested.

Section 7. ABATEMENT BY TOWNSHIP

Upon failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate same, the health officer or other duly designated officer of the Township may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

Section 8. EMERGENCY ABATEMENT BY TOWNSHIP

When, in the opinion of the health officer or other duly designated officer, there is actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the health officer or duly designated officer is hereby authorized and empowered, without any notice or hearing, to order and require such premises to be vacated. The health officer or other duly designated officer shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

Section 9. TOWNSHIP'S COSTS DECLARED LIEN

Any and all costs by the Township in the abatement of a nuisance under the provisions of this chapter shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law.

Section 10. ADDITIONAL REMEDIES

In addition to other remedies available under this or other entity who shall be convicted of violating or failing to comply with the provisions of this ordinance shall be punished by a fine of not more than Three Hundred (300.00) Dollars, together with costs of prosecution, and in default of payment of such fines and costs, the violator shall be subject to imprisonment in the county prison for a term not to exceed thirty (30) days. Continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation shall be punished as provided above for each separate offense.

The Township may pursue the additional remedies under this chapter as authorized by the First Class Township Code as reenacted, revised and amended by the institution of proceedings in courts of equity.

Section 11.

Provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or other part of this Ordinance.

Section 12.

All Ordinances or parts of Ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent of any such conflict or inconsistency.

Section 13.

This Ordinance shall take effect upon adoption.

ENACTED AND ORDAINED at a regular meeting of the Board of Commissioners of Newport Township, the /s/ 7th day of /s/ July, 1986.

/s/ Eli Morgis
PRESIDENT, Newport Township
Board of Commissioners

ATTEST:

/s/ John F. Elmy
Secretary