

**TOWNSHIP OF TUSCARORA
PERRY COUNTY, PENNSYLVANIA**

ORDINANCE NO. -2019-01

AN ORDINANCE OF TUSCARORA TOWNSHIP TO REGULATE VARIOUS CONDUCT AND ACTIVITIES WITHIN TUSCARORA TOWNSHIP, TO CLASSIFY CERTAIN CONDUCT AND ACTIVITY AS NUISANCES, TO PROVIDE A PROCESS TO ADDRESS SUCH NUISANCES AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE IN TUSCARORA TOWNSHIP, PERRY COUNTY, PENNSYLVANIA.

WHEREAS, the Board of Supervisors of Tuscarora Township, Perry County, Pennsylvania, deem it to be in the best interests and general welfare of the citizens and the residents of this Township to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which has the potential to cause or causes injury, damage, hurt, abuse inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of their rights of person or property;

AND WHEREAS, Section 1529 of the Second-Class Township Code, as amended, (53 P.S. §66529), authorizes Townships of the Second Class to prohibit nuisances and Section 1533 (53 P.S. §66533) authorizes Townships of the Second Class to remove any nuisance and collect the costs of the removal, together with a penalty;

AND WHEREAS, the Board of Supervisors finds it necessary and in the best interests of the Township:

- a. To protect the public against the unlawful activities, behavior and conduct herein defined which constitute a nuisance;
- b. To protect all persons' use and enjoyment of their property against trespassing by the activities, conduct and behavior classified as nuisances;
- c. To protect all persons against the health and safety menace and the expense incident to the activities, behavior and conduct herein classified as nuisances; and
- d. To preserve to all persons their constitutional right to preserve their ordinary rules of decency, good morals and public order by regulating the conduct herein described as nuisances; and

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Tuscarora Township, Perry County, Pennsylvania that the Code of Ordinance of the Township of Tuscarora, Chapter 10, shall be amended and shall, in its entirety, read as follows:

Part 1**Nuisance****§10-101. Definitions.**

For the purpose of this Part 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:

Board of Supervisors - the Board of supervisors of the Township.

Nuisance - the unreasonable, unwarrantable, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of person or property.

Owner - a person owning, leasing, occupying, anyone in possession of real estate in the Township by virtue of a written or oral agreement or by claim of right or having charge of any real estate within the Township.

Person - any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

Township - Tuscarora Township, Perry County, Pennsylvania.

(Ord. 20, ¹ 12/15/1996, §1, as amended by Ord. 2017-1, 11/16/17)

§10-102. Nuisances Declared Illegal.

Nuisances including, but not limited to, the following, are hereby declared to be illegal, abatable and punishable as set forth herein:

- A. Storing or accumulating the following:
 - (1) Trash, rubbish, garbage other filthy deposit (or concealing any trash, rubbish, garbage, trash or any other filthy deposit).
 - (2) Junk material including, but not limited to, unused or abandoned machinery, equipment or appliances.
 - (3) Other junk including, but not limited to, any and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvable materials.
- B. Storing or accumulating abandoned or junked motor vehicles.
- C. Storing or accumulating more than two antique or collector motor vehicles for restoration which are neither sheltered by a building nor enclosed behind an evergreen or solid fence as permitted by applicable zoning ordinances; or storing

or accumulating in an unordered fashion two or fewer antique or collector motor vehicles for restoration.¹

- D. Draining or flowing, 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, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or any foul or offensive water or foul 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.
- E. Draining or flowing, or allowing to drain or flow, any water or drainage from within any dwelling situate upon property along any public highway, road, street, avenue, lane or alley in the Township into or upon the cartway or traveled portion of any said highway, road, street, avenue, lane or alley, except where provision has been made in said cartway or traveled portion for said drainage by means of a drainage ditch or otherwise.
- F. Dumping and/or Burning of garbage, tires, styrofoam, plastic or tar products, including but not limited to roof shingles and asphalt.
- G. 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.
- H. Permitting or allowing any well or cistern to be, or remain, uncovered or any open vaults, drains, failed cesspools or failed septic systems.
- I. Interfering with the flow of a stream, creek or other waterway by means of a dam or other construction, unless authorized by law.
- J. Removing the embankment of a stream so as to alter the natural flow of the stream.
- K. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintain by the Township or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.
- L. 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 barricade, temporary fence, or other protective materials.

¹ Editor's Note: Renumbered *Ord. 20* from *Ord. 21* by *Ord. 24*, 5/15/2003.

- M. Permitting the growth of vegetation in excess of a height of twelve (12) inches, or permitting any such vegetation to throw off any unpleasant or noxious odor.

EXCEPTION: The provisions of this subsection pertaining to the permissible height of vegetation within the Township shall not apply to any property which is utilized predominantly for agricultural purposes within the Township.

- N. Using lights, incandescent, strobe, sodium or mercury vapor, shall spot, flood or otherwise shine so as to impede the safe movement of traffic upon the streets, highways or traffic ways within the Township. No lights, incandescent, strobe, sodium or mercury vapor, shall spot, flood or otherwise shine upon the property of another so as to annoy, disturb or otherwise prevent another person from enjoying the privacy of their own property. No residence, business, industry or other person shall illuminate any sign adjacent to any public road, street or highway within the Township with flashing, rotating sequential, strobe or otherwise moving lights so as to interfere with the movement of traffic upon said streets, highways or traffic ways, within the Township. No residence, business, industry or other person shall utilize any form of configuration of lights so as to resemble a traffic signal, railroad signal or any other form of simulated signal, visible to the motoring public upon any public road, street or highway within the Township.
- O. Engaging in the business of manufacture or sale of any explicitly pornographic, obnoxious or obscene material or to provide such as live or recorded entertainment which is considered offensive in nature within the Township.
- P. Starting any fires endangering lives or property of the Township or property of residents of the Township.
- Q. Permitting any mud, dirt, coal, wood, brick, stone, gravel, clay, sand, rubbish or any other matter to remain upon the public streets contiguous to a Property Owner's premises more than twenty-four (24) hours after it has been deposited there except by special permission of the Board of Supervisors.
- R. Throwing, spreading or depositing on any of the public streets, roads, highways, watercourses or gutters within the Township limits and permit ting it to remain: any animal carcass, fish, shellfish, ashes, paper, glass, tires, cans or rubbish of any kind or any other refuse of offensive matter whatsoever or tacks, nails, sharp pieces of iron, glass bottles, briars, thorns or other dangerous and similar substances which may injure an animal or puncture a rubber tire.
- S. Running foul or nauseous liquids, washings or draining from any manufacturing establishments, stores, stables, private residences or shops into or along any of the sidewalks, public streets, roads or highways of the Township, or to keep, collect or use any garbage or filth or any stale, putrid, stinking fat, grease or other matter in or near any establishment or residence within the Township limits.

- T. Posting, pasting or fastening any printed, painted or written signs, show bill, placard, circular or advertisement of any description whatsoever upon any tree, telegraph, telephone or electric light pole within any Township right-of-way unless authorized by the Board of Supervisors.
- U. Permitting or causing the emission of any offensive or foul odor, scent, emanation or fume within the Township limits, except as normal and customary in farming activities.
- V. Storing upon any public street, road or highway or private property within the Township, any motor vehicle which is no longer in actual use for transportation and: (1) is unfit to be operated; or (2) causing to seep into the soil any rust, solid or liquid; (3) has been discarded or otherwise abandoned; or (4) which otherwise constitutes a nuisance. Failure of a motor vehicle to display a current valid registration plate and certificate of inspections required by the Vehicle Code of Pennsylvania constitutes *prima facie* proof that such vehicle is no longer in actual use for transportation.
- W. Committing or maintaining a nuisance as defined in and prohibited by Chapter 65 of Title 18 of the Pennsylvania Consolidated Statutes.

(Ord. 20, 12/15/1996, §2; as amended by Ord. 2017-1, 11/16/2017)

§10-103. Written Notice to Violators Required.

1. The Board of Supervisors hereby designates each Member of the Board of Supervisors, the Township Secretary, Zoning Officer, Code Enforcement Officer and/or the Township Roadmaster to conduct any investigations required by this ordinance and to determine the status of any such violation. Whenever a condition constituting a nuisance is permitted or maintained, the Board of Supervisors shall cause written notice to be served upon the owner by the Code Enforcement Officer in one of the following manners:
 - A. By making personal delivery of the notice to the owner.
 - B. By handling 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 a local newspaper of general circulation within Perry County, Pennsylvania, once a week for 3 successive weeks.

2. Such notice shall include a copy of this ordinance and shall set forth in what respect such condition constitutes a nuisance, 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 20 days and thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the provisions of §10-102.F, .H, .K or .L is violated, such constitutes an "Emergency Nuisance" and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

If the nuisance violation is neither cured nor substantial efforts are made to cure within the twenty (20) days of the date of the notice, nor withdrawn nor held in abeyance by the Township, the Code Enforcement Officer shall make a physical visit to the property upon which the nuisance is occurring, followed (on the same day) by a written notice to the Owner from the Code Enforcement Officer documenting the then current status of the nuisance, which if not entirely abated, shall be accompanied by a Citation to be issued by the Code Enforcement Officer. The fine for a first offense by an Owner for the Citation shall be \$300.00. The fine for subsequent offenses by an Owner shall be no less than \$300.00 and no more than \$1,000.00, to be established by the Code Enforcement Officer. If the nuisance is not entirely abated within ten (10) days of the Citation and/or the fine remains unpaid, , the Board of Supervisors may authorize the Solicitor at any Public Meeting to take appropriate legal action under **§10-104**.

(Ord. 20, 12/15/1996, §3; as amended by Ord. 2017-1, 11/16/2017, as amended by Ord. 2018-01, 03/21/2019)

§10-104. Remedies for Violation.

1. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay any administrative fines as per above and a fine of not less than \$300 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [Ord. 33]
2. The Board of Supervisors may, in its sole discretion, direct the removal, repair or alterations, as the case may be, to be done by the Township and to certify the costs thereof including but not limited to attorney fees to the Township Solicitor, the cost of such removal, repairs or alterations shall be a lien upon such premises from the time of such removal, repairs and alterations, which date shall be determined by the certificate of the person doing such work, and filed with the Township Secretary.

3. The Township, by means of a complaint in equity, may compel the owner of the premises to comply with the terms of any notice of violations, or seek any such other relief as any such court of competent jurisdiction is empowered to afford including but not limited to attorney fees and injunctive relief.
4. These remedies are cumulative and the Township may in an appropriate case use all three remedies.

(*Ord. 20*, 12/15/1996, §4; as amended by *Ord. 33*, 1/21/2010; as amended by *Ord. 2017-1*, 11/16/17, as amended by *Ord. 2019-1*, 03/21/2019)