

12-16-24

ORDINANCE #8

AN ORDINANCE TO PROHIBIT NUISANCES BY THE PROHIBITION AND REGULATION OF: ACCUMULATION OF GARBAGE AND RUBBISH, STORAGE OR ABANDONED OR JUNKED AUTOMOBILES, OTHER DANGEROUS OR OFFENSIVE ACTIVITIES OR INSTRUMENTALITIES ON PUBLIC OR PRIVATE PROPERTY: DEFINING NUISANCE AND FIXING PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

WHEREAS, The Board of Supervisors deems 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 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 Township Code, 1933, May 1, P.L. 103, Art. VII, Section 702, cl. XII, as amended, 53 P.S. Section 65712, authorizes townships of the second class to prohibit nuisances, to remove same, and to impose penalties therefor,

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

Section 1. 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.

- (1) "Township" is the Township of Berwick, Adams County, Pennsylvania.
- (2) "Board of Supervisors" is the Board of Supervisors of Berwick Township, Adams County, Pennsylvania.
- (3) "Owner" is a person owning, leasing, occupying or having charge of any premises within the Township.
- (4) "Person" is any natural person, firm, partnership, association, corporation, company or organization of any kind.
- (5) "Nuisance" is the unreasonable, unwarrantable or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance, or discomfort to any person in the legitimate enjoyment of his reasonable rights of person or property.

Section 2. NUISANCES DECLARED ILLEGAL.

It shall be unlawful for any person to maintain or allow to be maintained on public or private property any activity or instrumentality which constitutes a nuisance. Nuisances include, but are not limited to, the following:

(A) Storage, Accumulating, or Dumping:

- (1) garbage or rubbish;
- (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 material, including scrap metal, glass, industrial waste, and other salvable materials.

(B) Storing or accumulating abandoned or junked motor vehicles.

(C) 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.

(D) Refusing or failing to cut and destroy any grass, weeds, or other vegetation not grown for human or domestic animal consumption or planted for some useful or ornamental purpose so as to exceed a height of 12 inches or to throw off any unpleasant or noxious odor or to conceal any filthy deposit

or to create or produce pollen.

(E) Permitting or allowing any well or cistern to be or remain uncovered.

(F) Interfering with the flow of a stream, creek, or other waterway, by means of dam construction or otherwise.

(G) Removing the embankment of a stream so as to alter the natural flow of the stream.

(H) 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.

Section 3. EXCEPTION TO DUMPING GARBAGE OR RUBBISH.

An owner or a person may file a request for an exception to Section 2(A)(1) with the Board of Supervisors. Such a request shall be made in writing and contain the following information:

- (1) name and address of applicant;
- (2) material(s) which applicant is requesting to dump;
- (3) location of lot where applicant proposes to dump garbage or rubbish;
- (4) name and address of owner of land where dumping is to occur if different from that of applicant;

- (5) amount of garbage and time period over which it is to be dumped (example: 1 day, 6 weeks);
- (6) steps to be taken by applicant to insure safety, health, and welfare of citizens of township, especially those near dumping site;
- (7) any other information the Board of Supervisors may request.

Upon approval of the application the Board of Supervisors shall issue a permit for a fee to be set by the Supervisors in keeping with the nature of the requested exception.

Section 4. WRITTEN NOTICE TO VIOLATORS REQUIRED.

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

- (A) By making personal delivery to the notice of 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 consecutive weeks.

(F) Such notice shall set forth in which 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 or 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 and reasonable dispatch, all material to be supplied and work done at the owner's expense; provided, however, that if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

Section 5. PENALTY FOR VIOLATION.

If the owner after receiving due notice refuses to comply with the terms of this ordinance:

(1) The fine and penalty for any violation of any of the provisions of Section 2 or 3 of this ordinance shall be not more than Three Hundred Dollars (\$300.00), and the costs of prosecution, which fine and penalty may be collected by suit or summary proceedings brought in the name of the Township before any District Justice. Upon judgment against any person

by summary conviction or by proceedings by summons or default of the payment of the fine or penalty imposed, the Defendant may be sentenced and committed to the county jail for a period not exceeding then (10) days, provided, however, that each days continuation of a violation after the expiration of the time stated in the notice pertaining thereto shall constitute a separate offense.

(2) The 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 award.

(3) The 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) per cent may be collected from the owner of the premises by an action of assumpsit or may file a municipal claim or lien therefore against such real estate.

Section 6. 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 7. REPEAL OF INCONSISTENT ORDINANCES.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances are specifically repealed: Ordinance Nos. 2, 3, 17 and 18.

Section 8. EFFECTIVE DATE.

This ordinance shall become effective five (5) days after the adoption hereof.

ENACTED AND ORDAINED this 10 day of December, 1984, in lawful session duly assembled.

ATTEST:

BERWICK TOWNSHIP,
ADAMS COUNTY, PENNSYLVANIA

Barbara A. Webb
Secretary

By Kenneth Seibert
Chairman
Board of Supervisors