

ORDINANCE NO. 08-10-15

AN ORDINANCE OF THE TOWNSHIP OF WEST PROVIDENCE, BEDFORD COUNTY, PENNSYLVANIA FOR THE PROTECTION OF THE PUBLIC HEALTH, AMENDING , REPEALING AND/OR REVISING WEST PROVIDENCE TOWNSHIP ORDINANCE NO. 05-04-09 AND ALL PARTS OR PORTIONS THERETO TO THE EXTENT INCONSISTENT HEREWITH; DEFINING NUISANCES AND DECLARING CERTAIN CONDITIONS, PLACES AND THINGS TO BE NUISANCES, AND PROHIBITING THE SAME, AND PROVIDING FOR THE ABATEMENT THEREOF, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, the Township of West Providence is empowered to prohibit nuisances and to provide penalties for the violation thereof (53 P.S. §66529, 66533 and 66601); and

WHEREAS, the Board of Supervisors of West Providence Township finds that it is in the best interests of health, welfare and safety of the Township and its citizenry to declare certain conditions, places and things to be nuisances, to define the same, and to provide for the abatement thereof, including penalties for violation of the regulations enacted by the Township with respect thereto; and

WHEREAS, the Board of Supervisors of West Providence Township deems it to be in the best interests and general welfare of the citizens and 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;

WHEREAS, it is hereby expressly declared that it is not the purpose or intention of the Township, by this Ordinance, to discriminate against or in any way to impose undue hardship, upon any individual, group, company or other business entity of any type;

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of West Providence Township, Bedford County, Pennsylvania, and it is hereby ordained and enacted by authority of the same;

SECTION NO. 1: TITLE.

This Ordinance shall be known as the "West Providence Township Nuisance Ordinance".

SECTION 2: REPEALER

West Providence Township Ordinance No. 05-04-09 and all parts or portions thereof are amended, repealed, and/or revised to the extent that they are inconsistent herewith

SECTION NO. 3: DEFINITIONS OF KEY TERMS.

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, words in the singular number shall include the plural number, pronouns

in the masculine shall include the feminine, and pronouns in the feminine shall include the masculine

1. "Board of Supervisors" is the Board of Supervisors of West Providence Township, Bedford County, Pennsylvania.
2. For purposes of this Ordinance, the words "normal agricultural operation" wherever used in said Ordinance and as defined in Pennsylvania's Right-to-Farm Act, 3 P.S. Section 952, shall be held and construed to mean and include the activities, practices, equipment, and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market of use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:
 - (1) not less than ten contiguous acres in area; or
 - (2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

Such term shall include new activities, practices, equipment and procedures consistent with the technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the Act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

3. "Owner" is a person owning, leasing, occupying or having charge of any premises, including but not limited to an unoccupied building as defined herein, within the Township.
4. "Person" wherever used in said Ordinance shall be held and construed to mean and include natural persons of either sex, firms, co-partnerships and

corporations, and all associations of natural person, whether acting by themselves or by a servant or employee, or any organization of any kind.

5. "Township" is the Township of West Providence, which is located within the confines of Bedford County, Pennsylvania.
6. "Unoccupied Building" wherever used in said Ordinance shall be held and construed to mean and include any building, structure, house, or other edifice which is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing and safety codes of the Township and State of Pennsylvania; any building, structure, house or other edifice which is tax delinquent for a period of two years or has not been rehabilitated within one year of the receipt of notice to rehabilitate from the appropriate code enforcement agency; any building, structure, house or other edifice from which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the it is unfit for its intended use.
7. "Vegetation" is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose, including but not limited to that planted or produced as part of a normal agricultural operation as defined herein.
8. "Abandoned or Junked Motor Vehicles" is any vehicle in non-serviceable condition or a vehicle without both a current inspection sticker and current registration plate and which is not surrounded on all four sides by a fence or other enclosure which is opaque in nature and the height of which exceeds the roof of the vehicle.
9. "Vicious Animal" shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that a person who harbors said animals knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.
10. "Ashes" shall mean any by-product of a carbon fuel source not properly disposed of and/or handled in accordance with applicable law, including but not limited to other Ordinances of this Township, which is permitted to infiltrate the air or water sources and/or flows or flies upon an adjoining property.

SECTION NO. 4: NUISANCE, GENERALLY DEFINED.

A nuisance consists in doing an unlawful act or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing, either:

1. Annoys, 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 stream, public park, square, street or highway in the Township of West Providence, or
5. In any way renders other persons insecure in life or in the use of property, or
6. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

SECTION NO. 5: NUISANCE, SPECIFICALLY DEFINED.

The following specific acts, omissions, places, conditions and things, are hereby declared to be nuisances:

1. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected, or which are foul or malodorous;
2. Any abandoned or junked motor vehicle;
3. Filthy, littered or trash-covered cellars, houseyards, barnyards, stables, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings or premises;
4. Garbage, trash, litter, rags, accumulation of empty barrels, boxes, crates, packing cases, mattresses, bedding, tires, freezers, refrigerators, excelsior, scrap iron, tin and other metal not neatly piled;
5. Garbage and/or trash which is allowed to accumulate for more than fourteen (14) days;
6. Ashes as defined above;
7. Water which is draining or flowing, or allowed to drain or flow, by pipe to 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, or from any property into or upon any adjoining property;

8. Burning of tires or tar products;
9. Snow which is pushed, shoveled or otherwise deposited upon the cartway or traveled portion of any public highway, road or street which is maintained by the Township or Commonwealth of Pennsylvania, and allowing the same to remain thereon;
10. Excavation materials which cause an 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;
11. Any loud noise, including but not limited to music of any manner including home stereos, bands, vehicular sound systems and portable "boom boxes", any drum or drums, any horn or horns, or any other unusual noise, disturbing the peace after 11:00 p.m. which can be heard a distance of one hundred fifty (150) feet from its source or such person's property line; or for any person to make, continue or cause to be made or continued any unnecessary or unusually loud noise which annoys, disturbs, injures or endangers the comfort, health, safety or peace of others within and which can be heard a distance of one hundred and fifty (150) feet from its source or such person's property line between the hours of 11:00 p.m. and 7:00 a.m.;
12. Posted advertisements, including the posting, pasting, or fastening of any printed, painted or written signs, show bills, placards, circulars or advertisements of any description whatsoever upon any tree, telephone or electric light pole within the Township limits unless authorized by the Township Board of Supervisors;
13. Glass and sharp objects on streets, including but not limited to the placing, throwing or putting on any street, road, lane or alley of the Township any tacks, nails, sharp pieces of iron, glass bottles, briars, thorns or other dangerous and similar substances which may injure an animal or puncture a tire;
14. The emission of any offensive or foul odor, scent, effluvium, emanation or fume within the Township limits, except as normal and customary in farming activities;
15. For any person to throw, hurl or cast any metal, stone, snowball, bullet or other missile at any person or animal passing along or standing at any of the streets, roads, lanes, alleys or sidewalks of the Township;
16. For any person to own, keep or permit any dog or animal on or about his

premises to disturb the peace and quiet of the night by barking, howling, crying or otherwise making a noise to the annoyance of the neighborhood which can be heard a distance of one hundred and fifty (150) feet from that person's property line;

17. It shall be unlawful for any person owning or possessing a dog to permit the same to run at large. "Running at large" shall be defined to be the presence of a dog at any place except upon the premises of another with the consent of the owner of such premises;
 - a. Provided that this Paragraph shall not apply to a "seeing eye dog" which is used to assist a person who is identified as legally blind, those animals under the control of law enforcement or a military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence or other adequate means, from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.
18. It shall be unlawful for any person to keep or permit to be kept on his premises any vicious animal as a pet or for display or for exhibition purposes, whether gratuitously or for a fee;
 - a. Provided that this Paragraph shall not apply to a "seeing eye dog" which is used to assist a person who is identified as legally blind, those animals under the control of law enforcement or a military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence or other adequate means, from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.
19. For anyone placing a vehicle or other obstruction on or along any street of the Township so as to interfere with vehicular or pedestrian traffic, unless it should become necessary to drive or place the vehicle in such position to load or unload merchandise or furniture, and then such vehicle shall only be permitted to remain for such lengths of time as is necessary to load or unload the same;
20. No person shall blast rock on or near any public street or alley within the Township without first having obtained permission from the Township Board of Supervisors, and after having obtained such permission, to blast under conditions and restrictions as set forth in the written consent of the Township Board of Supervisors;
21. No person or persons, excluding businesses dealing with such or using

the same in the course of its businesses shall keep or store explosives within the Township, and no vehicles loaded with explosives shall be allowed to remain within the Township limits for a longer period than two (2) hours;

22. No person shall permit any animals including any dogs, cats, cattle, horse, mule, sheep, goat, geese, ducks or swine to roam or be at large upon the streets, lanes or alleys in any of the inhabited parts of the Township;
23. Littering;
24. Animal manure, other than that typically produced and used in connection with a normal agricultural operation and which does not have a direct adverse effect upon the public health or safety, which is not securely protected from flies and the elements, or which is kept or handled in violation of any Ordinance of the Township;
25. Animal feces which is permitted to lie in public places, on sidewalks, and/or upon the property of another without being retrieved and properly disposed of;
26. Tin cans, bottles, glass, cans, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all such trash or abandoned material, unless the same be kept in covered bins, or galvanized iron receptacles, approved by the Health Officer;
27. Vegetation which is permitted to grow or remain in excess of six (6) inches in height, with certain exceptions as noted above in the definition of the term "vegetation";
28. Unoccupied buildings as defined herein.
29. Smoke from an outdoor burning device which is uncontrolled, directed intentionally or recklessly towards a neighboring property, and which is not dissipated from a flue or pipe of a height required by applicable federal, state, and/or local law.

SECTION NO. 6: NUISANCES PROHIBITED.

It shall be unlawful for any person to erect, contrive, cause, suffer, permit, continue or maintain a nuisance as herein defined or prohibited.

SECTION NO. 7: UNOCCUPIED BUILDINGS.

Every agent or owner of any unoccupied building in the Township of West Providence shall keep the same securely closed at all times against persons who may enter and commit a nuisance therein.

SECTION NO. 8: ENTERING UNOCCUPIED BUILDINGS.

It shall be unlawful for any person to enter any unoccupied building and commit a nuisance therein.

SECTION NO. 9: SUCCESSIVE OWNERS.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property caused by the former owner is liable therefor in the same manner as the owner who created it.

SECTION 10: WRITTEN NOTICE REQUIRED.

Whenever a condition constituting a Nuisance as defined herein is found to exist, the Board of Supervisors shall cause written notice to be served upon the owner in one of the following manners:

1. By fixing a copy of the notice to the door at the entrance of the premises in violation; or
2. By mailing a copy of the notice to the last known address of the owner by certified mail; or
3. By making personal delivery of the notice to the owners; or
4. 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; or

SECTION NO. 11: PENALTIES.

Any person who shall violate any of the provisions of this Ordinance shall be guilty of an Offense. The Board of Supervisors hereby set a criminal fine of One Thousand (\$1,000.00) Dollars per violation, and the costs of prosecution including but not limited to attorney's fees in relation thereto, and, in default of payment of such fine and costs of prosecution, to undergo imprisonment of not more than Ten (10) days, provided, further, that each day's continuance of a violation shall constitute a separate event.

The Township shall initiate an enforcement proceeding by an action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c) (relating to trial in summary cases).

This Ordinance may also be enforced by the Township through an action in equity brought in the Court of Common Pleas of the county where the Township is situate.

SECTION NO. 12: ABATEMENT OF NUISANCE.

Wherever a nuisance exists as defined in this Ordinance, the Township's Board of Supervisors may require the owner of the public or private grounds on which the nuisance exists to remove the nuisance or dangerous structure from the public or private grounds. After ten (10) days notice from the Township to the owner to remove any nuisance or dangerous structure on public or private grounds and upon the owners failure to do so, the Board of Supervisors may remove the nuisance or structure and collect the cost of the removal, together with the penalty of one hundred (\$100.00) dollars from the owner by summary proceedings or under law for the collection of municipal liens and attorney's fees incurred in connection therewith.

SECTION NO. 13: PAYMENT OF FINES AND PENALTIES.

All fines and penalties collected for the violation of this Ordinance shall be paid over to the Township's Treasurer.

SECTION NO. 14: SEPARATE OFFENSES.

Each day's continuance of anything prohibited by this Ordinance shall be a separate offense hereunder.

SECTION NO. 15: SEVERABILITY CLAUSE.

If any section or provision of this Ordinance shall be held void or unconstitutional, all other sections and all other provisions of the Ordinance which are not so held void or unconstitutional shall continue in full force and effect.

SECTION NO. 16: EFFECTIVE DATE.

The effective date of this Ordinance shall be within five (5) days of its passage.

ORDAINED AND ENACTED as an Ordinance of West Providence Township this
10th day of August, 2015.

ATTESTED:

Patricia Jom
Secretary

WEST PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS

Brandon Chamberlain
Brandon Chamberlain, Chairman

Thomas Brady
Thomas Brady, Supervisor

Harold "Buck" Smith
Harold "Buck" Smith, Supervisor

NOTICE

NOTICE IS HEREBY GIVEN by the Board of Supervisors of West Providence Township, Bedford County, Pennsylvania that the Supervisors in and for such Township intend to consider for enactment at their next regularly scheduled meeting on August 10, 2015 at 6:00 p.m. a proposed Ordinance entitled, "AN ORDINANCE OF THE TOWNSHIP OF WEST PROVIDENCE, BEDFORD COUNTY, PENNSYLVANIA FOR THE PROTECTION OF THE PUBLIC HEALTH, AMENDING, REPEALING AND/OR REVISING WEST PROVIDENCE TOWNSHIP ORDINANCE NO. 05-04-09 AND ALL PARTS OR PORTIONS THERETO TO THE EXTENT INCONSISTENT HERewith; DEFINING NUISANCES AND DECLARING CERTAIN CONDITIONS, PLACES AND THINGS TO BE NUISANCES, AND PROHIBITING THE SAME, AND PROVIDING FOR THE ABATEMENT THEREOF, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF." The proposed Ordinance contains Title in Section 1; Repealer in Section 2; Definitions of Key Terms in the Ordinance in Section 3; Nuisance, Generally Defined in Section 4; Nuisance, Specifically Defined in Section 5; Nuisances Prohibited in Section 6; Unoccupied Buildings in Section 7; Entering Unoccupied Buildings in Section 8; Successive Owners in Section 9; Written Notice Required in Section 10; Penalties in Section 11; Abatement of Nuisance in Section 12; payment of Fines and Penalties in Section 13; Separate Offenses in Section 14; Severability Clause in Section 15; and Effective Date in Section 6.

The meeting will be held at the West Providence Township Municipal Building, 83 East Fifth Avenue, Everett, Pennsylvania, 15537. Any and all interested persons may attend such meeting. A full copy of the text of the proposed Ordinance may be examined or secured at the Office of the Township Secretary, Patti Foor, West Providence Township Municipal Building, during regular office hours, 8:00 a.m. to 3:30 p.m., Monday through Friday. A full copy of the same has also been placed with and may be examined at the Office of the Bedford Gazette, 424 W. Penn Street, Bedford, PA 15522.

Brandon Chamberlain, Chairman
West Providence Township

PROOF OF PUBLICATION

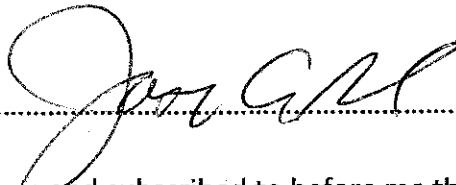
State of Pennsylvania,

Bedford County

ss:

Joseph A. Beegle, being duly sworn, deposes and says: That the Bedford Gazette was established in 1805 and that it is a daily newspaper of general circulation, published every morning except Sunday, as defined by the Act of Assembly approved May 16, 1929, P.O. 1929, page 784. That its place of business is Bedford Borough, Bedford County, Pennsylvania, and that the attached printed notice is a copy of the Public Notice advertisement exactly as printed in the said publication in its issue of.....July 17, 2015.....

That the affiant is not interested in the subject matter of the advertisement or advertising and that he, Joseph A. Beegle is the Publisher of the Bedford Gazette and that all allegations of the statement as to the time, place and character of publication are true.

.....

 Sworn and subscribed to before me this

Day ofJuly..... A.D. 2015.....

.....Rebecca Smith..... (SEAL)

COMMONWEALTH OF PENNSYLVANIA
 Notarial Seal
 Rebecca Smith, Notary Public
 Napier Twp., Bedford County
 My Commission Expires June 11, 2016
 MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES