

RUSH TOWNSHIP, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 182

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, PROHIBITING NUISANCES, PROVIDING FOR EXCEPTIONS, REQUIRING NOTICE, PRESCRIBING PENALTIES FOR VIOLATIONS, AND REPEALING RUSH TOWNSHIP ORDINANCE NO. 82.

WHEREAS, Rush Township, Schuylkill County, Commonwealth of Pennsylvania is a Second Class Township under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Second Class Township Code authorizes townships to adopt ordinances necessary for the health and welfare of the township and its citizens (53 P.S. §66506); to adopt ordinances to secure the safety of persons (53 P.S. §66527); and to adopt ordinances prohibiting nuisances (53 P.S. §66529); and

WHEREAS, the Rush Township Board of Supervisors have periodically received complaints from citizens that their safety and/or reasonable comfort are adversely affected by nuisances existing on properties within Rush Township, and as such the Board of Supervisors feels it is necessary for the health and welfare, and safety of the citizens of Rush Township to adopt this Ordinance prohibiting nuisances within Rush Township;

NOW, THEREFORE be it ORDAINED as follows:

Section 1. Definitions.

The following words in this Ordinance shall have the meanings defined herein, unless the context clearly indicates otherwise. Further, references to the plural shall contain the same definition as the singular.

A. "Nuisance" - any condition, whether affecting the public at large or a particular person or group of persons, existing on property, or emanating (through smoke, odor, light, noise or vibration) from the property, of any person which:

- (1) endangers the life, health or safety of any other person; or
- (2) unreasonably causes annoyance to the comfort of any other person in the use or enjoyment of said other person's property; or
- (3) unreasonably and adversely effects the property value of other properties.

B. "person" - any natural person, corporation or any other legal entity.

C. "Township" - Rush Township, Schuylkill County, Commonwealth of Pennsylvania.

Section 2. Prohibitions.

A. No person shall allow any Nuisance, which constitutes a nuisance-in-fact, to exist on any property or emanate from any property within the Township which is under the ownership or control of said person.

B. It is not possible to create a complete list of all possible conditions fitting within the definition of Nuisance as defined in Section 1 of this Ordinance, and prohibited in Section 2A of this Ordinance. The following, however, are some examples of conditions which, if they rise to the level of nuisances-in-fact, constitute Nuisances under this Ordinance. Examples of conditions which could constitute a Nuisance include, but are not limited to:

(1) the parking or keeping on property of exposed abandoned or junked automobiles, or motor vehicles which are inoperable whether as a result of mechanical failure or lack of valid registration or inspection.

(2) the exposed storage or accumulation on property of garbage or household waste beyond the time necessary to have said garbage removed by normal trash pick-up, of inoperable, discarded, broken or rusted equipment, machinery, appliances, lumber, junk, scrap metal, glass or industrial waste, of tires, or of dirt or ashes in such a way as to be blown by wind onto property of another person.

(3) permitting or allowing any well, cistern, drain or similar item to remain open, uncovered or unsecured.

(4) allowing any excavation on property adjoining a roadway, street, alley or highway to remain open or exposed without an appropriate barricade, fence or other protective material, or allowing any obstruction on said property which interferes with normal vehicle travel or the field of vision of drivers.

(5) housing domestic animals that, based on either their number or on the location and times where and when they are kept, cause unreasonable noise during hours when persons are normally asleep, or obnoxious odors, or create unsanitary conditions.

(6) allowing a structure to remain on property which is in dangerous condition, or which is in such dilapidated condition that it is capable of collapse.

(7) interfering with the flow of a stream, creek or waterway, or depositing garbage or discarded items into a stream, creek or waterway.

Section 3. Exceptions.

Any condition of property or emanating from property which is otherwise a Nuisance under this Ordinance shall not be a Nuisance if the person alleged to be in violation conducts a legitimate, permitted business on the property and the alleged Nuisance is a legitimate and required by-product or ramification of that business.

Section 4. Notice.

Before any citation can be filed against a person under Section 5 subpart 1 of this Ordinance, the person alleged to be violation of Section 2 of this Ordinance shall be given written notice, either by first class mail to the address on which the alleged Nuisance exists (and the act of mailing constitutes the notice, even if the mail is returned), or by hand delivery, of the existence of the Nuisance. The notice shall contain a specific description of the condition constituting the Nuisance, and shall state a reasonable number of days which the person is given to abatement the Nuisance.

Section 5. Penalties.

1. Enforcement of this Ordinance may be by citation filed with a Magisterial District Justice in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person alleged to be in violation of any Section of this Ordinance may be so cited, and upon conviction shall be ordered to pay a fine on not less than \$100 nor more than \$1,000, and/or be sentenced to a term of imprisonment upon conviction or failure to pay a fine not exceeding 90 days. Any person convicted shall also be ordered to pay Court costs. Each day on which a violation occurs shall be considered a separate violation.
2. Enforcement of this Ordinance may be by an action in equity initiated by the Township to enjoin or prohibit the existence of the Nuisance.
3. Any costs incurred by the Township in proceeding under Section 5 subpart 1, such as Solicitor fees if the Solicitor takes charge of the prosecution of the citation, filing fees, or fees paid to any municipal official or employee for time spent in litigating the citation, and any costs incurred by the Township in proceeding under Section 5 subpart 2, such as Solicitor fees, filing fees or other court costs, or abatement or clean up costs, shall be chargeable to the property on which the Nuisance exists and may be reduced to a lien by the Township on the property.

Section 6. Repealer.

Township Ordinance No. 82 is repealed by the passage of this Ordinance. Neither Township Ordinance No. 81, nor any other prior Ordinance except Ordinance No. 82, is repealed by the passage of this Ordinance. If both Township Ordinance No. 81 or some other Township Ordinance and this Ordinance are each potentially applicable to the facts and circumstances of a particular case, the Township may pursue remedies under either Ordinance.

Section 7. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason found to be invalid by a Court of competent jurisdiction, such invalid portion shall be deemed separate, distinct and independent from the remainder of this Ordinance, and the remainder of this Ordinance shall continue in full force and effect.

Section 8. Effective Date.

This Ordinance shall be effective upon enactment or on the first day allowed by law thereafter, whichever occurs first.

ORDAINED and ENACTED, this 20th day of June, 2013.

ATTEST:

Darlene Fenstermecker
Secretary

RUSH TOWNSHIP
BOARD OF SUPERVISORS

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