

ORDINANCE NO. 2 of 2007

AN ORDINANCE OF WALKER TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES AND THE UNREASONABLE, UNWARRANTABLE OR UNLAWFUL USE OF PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP CAUSING INJURY OR ANNOYANCE OF OTHERS AND IN DEFAULT THEREOF, PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Board of Supervisors of Walker Township, Schuylkill County, Pennsylvania deem it to be in the best interests and general welfare of the citizens and the residents of Walker 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, Act 60 of 1995, (53 P.S. §66529) authorizes Townships of the Second Class to prohibit nuisances, to remove same and to impose Penalties therefore.

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

Section 1. DEFINITION: For the purpose 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 Walker, which is located within the confines of Schuylkill County, Pennsylvania.
2. Board of Supervisors - is the Board of Supervisors of Walker Township, Schuylkill County.
3. Owner - is a person owning, leasing, occupying or having charge of any premises within Walker Township.
4. Person - is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.
5. Vegetation - is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.
6. 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 or resident in the legitimate enjoyment of his reasonable rights of a person or property.

7. Abandoned or Junked Motor Vehicles - is any vehicle in non-serviceable condition or without having both a current inspection sticker and current registration plate.

8. Person - any human being, group of human beings, or other legal entity or group of legal entities.

9. Shine - the throwing or casting of the rays of a spotlight.

10. Spotlight - any lamp, light, or other artificial device designed to direct a beam of light, regardless of the size of such beam or the intensity thereof and regardless of the area of actual illumination thereby. Spotlights shall include, but not be limited to, all vehicle headlamps, flashlights, arc lights, and any other devices which direct an intense beam of light on a small area.

Section 2. NUISANCES DECLARED ILLEGAL: Nuisances, including, but not limited to the following, are hereby declared to be illegal:

A. Storing or Accumulating the following:

1. Garbage, ashes, refuse or rubbish.

(a) Garbage: Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce. It shall be unlawful to place or permit to remain anywhere in the township garbage or other material subject to decay other than leaves or grass, decayable material excepting in a tightly covered container; excepting that a mulch heap is permitted, which is properly maintained for gardening purposes or namely used to augment fertilization of field and does not materially disturb or annoy persons of ordinary sensibilities in the neighborhood. It shall be unlawful to any individual, firm or corporation to store more than fourteen (14) days of garbage as defined by this ordinance which may pose a potential health and safety problem to the community.

(b) Refuse/rubbish: Combustible trash, including paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, leaves, wood furniture, bedding; noncombustible trash, including metals, tin cans, metal furniture, dirt and pieces of concrete or debris, glass, crockery, other mineral waste; street rubbish, including street sweeping; dirt, catch-basin dirt, contents of letter receptacles. Provided, refuse shall not include earth and wastes from building operations, nor shall it include leaves, cornstalks, stubble or other vegetable material generated in the course of harvesting agricultural crops. It shall be unlawful to cause or permit to accumulate any dust, ashes, including residue used for cooking or heating purposes, or trash of such a material that it can be blown away by the wind onto

any township property or onto any neighboring properties or can cause the fouling of any stream, lake, or watering hole. This section shall not apply to tree branches and cut brush stockpiled for the purpose of providing habitat to small indigenous animals by property owners having more than five (5) acres of land.

2. Junk Material, including, but not limited to, unused or abandoned machinery, excluding that which is used periodically and used for active farming operation, appliances or equipment, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvageable materials, unless for resale, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by Walker Township, or by the Commonwealth of Pennsylvania.

B. Storing or accumulating abandoned or junked motor vehicles, which are inoperable and beyond repair, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by Walker Township, or by the Commonwealth of Pennsylvania. All such vehicles must be moved in sixty (60) days, or if at vehicle repair business, ninety (90) days. This excludes enclosed trucks and trailers modified for use as storage as part of an active agricultural or commercial operation and not for any residential purpose.

C. Storing or accumulating more than one (1) motor vehicle 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 a non-orderly fashion three (3) or less antique or collector motor vehicles for registration.

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: 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 dwelling situate upon property along public highway, road, street, avenue, lane, or alley in Walker Township into or upon the cartway or traveled portion for said drainage by means of a drainage ditch or otherwise.

F. Burning of tires, tar products, hazardous or other materials, including but not limited to plastics, solvents, solvent containers, turpentine, and thinner. This excludes rags used for normal household waste.

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 the growth of any grass, weeds, noxious weeds, or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, to conceal any rubbish, garbage,

trash or any other violation of this ordinance.

I. Permitting the growth of any grass, weeds, noxious weeds, shrubbery, trees, or any vegetation whatsoever on any property that causes an obstruction of vision on any road or impairs any vehicular travel.

J. Permitting or allowing any well or cistern to be, or remain, uncovered.

K. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by Walker 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.

M. Interfering with the flow of a stream, creek or other waterway, by means of dam construction or otherwise, or removing the embankment of a stream so as to alter the natural flow of the stream.

N. Defacing Public and Private Property:

1. It shall be unlawful for any person, partnership, corporation or agent acting independently or under the direction of the principal to deface any private or public buildings, structures, signs, banners, or vehicles within the Township. Examples of Defacing shall include but not be limited to the following examples; application of paint, inks and dyes; affixing of any printed materials such as signs or posters; destruction or removal; defacing in any manner.

Section 3. WRITTEN NOTICE TO VIOLATORS REQUIRED: Whenever a condition constituting a nuisance is permitted or maintained, the Board of Supervisors of Walker Township shall cause written notice to be served upon the owner in one of the following manners:

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

5. By publishing a copy of the notice in a local newspaper of general circulation within Walker Township, Pennsylvania, once a week for three (3) successive weeks.

Such notice 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 twenty (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 Section 2(F), (J), (K), or (L) is violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

Section 4. PENALTY FOR VIOLATION: This Ordinance regulates building, housing, property, maintenance, health, fire, public safety, air or noise pollution, and shall be enforced pursuant to 53 P.S. 56601(c.1)(2).

1. Enforcement thereof shall be by an action before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa. Rules of Criminal Procedure No. 83(c) (relating to trial and summary cases). The Board of Supervisors hereby set a criminal fine in the amount of One Thousand (\$1,000.00) Dollars per violation, and the costs of prosecution, 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.

2. The Board of Supervisors may direct the removal, repair, or alterations, as the case may be, to be done by the Township and to certify the costs thereof 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, cutting, 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 violation or seek any such other relief as any such court of competent jurisdiction is empowered to afford.

Section 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective five (5) days

