

TOWNSHIP OF HALIFAX
DAUPHIN COUNTY, PENNSYLVANIA

ORDINANCE NO. 2013- 8

This Ordinance shall be known as the **NUISANCE ORDINANCE OF 2013**

AN ORDINANCE OF HALIFAX TOWNSHIP TO REGULATE VARIOUS CONDUCT AND ACTIVITIES WITHIN HALIFAX TOWNSHIP, INCLUDING BUT NOT LIMITED TO NOISE, 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 HALIFAX TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA.

WHEREAS, the Board of Supervisors of Halifax Township, Dauphin 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 or person of 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;
- 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
- e. To enact this Nuisance Ordinance of 2013.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Halifax Township, Dauphin County, Pennsylvania as follows:

SECTION 1 - DEFINITIONS

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.

- A. "Township" is the Township of Halifax, Dauphin County, Pennsylvania.
- B. "Board of Supervisors" is the Board of Supervisors of Halifax, Dauphin County, Pennsylvania.
- C. "Person" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.
- D. "Vegetation" is any grass, weed or vegetation which is neither edible nor planted for some useful, agricultural, legal or ornamental purpose.
- E. "Nuisance" is the unreasonable, unwarrantable, or unlawful use of public or private 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 reasonable rights of person or property.
- F. "Emergency Nuisance" is a nuisance which poses an immediate threat to the public health, safety or welfare of the Township or of any person within the Township as determined by the Board of Supervisors or its designee.
- G. "Property Owner" is a landowner of real estate in the Township as determined by the tax rolls and records of the Township.
- H. "Responsible Person" is anyone in possession of real estate in the Township by virtue of a written or oral agreement or by claim of right and who is not the Property Owner or who violates this ordinance without any ownership or possession interest within the Township.

SECTION 2 - 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 unless such can be proven as in use as spare parts or for repairs.
 3. Other junk, including, but not limited to, any and all forms of waste and refuse of any type of materials, including glass, industrial waste and other such materials.
 4. More than three (3) motor vehicles for restoration or repair which are neither sheltered by a building nor enclosed behind an evergreen or solid fence or storing or accumulating in an unorderly fashion three (3) or less motor vehicles for restoration or repair and without justification (e.g. for a legitimate agricultural purpose).
- B. Permitting the growth of vegetation in excess of a height of twelve (12) inches in the front yard of any parcel or permitting any vegetation to throw off any unpleasant or noxious odor or to pose a health risk, including but not limited to: encouraging the presence of rodents or insects, blowing thistles or as an invasive species.
- EXCEPTION: The provisions of this subsection pertaining to the permissible height of vegetation within the Township shall not apply to any parcel or part thereof which is utilized predominantly for either:
1. Agricultural purposes; or
 2. Primarily for soil erosion, stabilization or sedimentation control purposes..
- C. 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 cess pools 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.
- D. 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 ,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.
- E. Burning of garbage, tires, or tar products.

- F. 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.
- G. Interfering with the flow of a stream, creek or other waterway by means of a dam or other construction, unless authorized by law or removing the embankment of a stream so as to alter the natural flow of the stream.
- H. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by the Township or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.
- I. Allowing or permitting any excavation, material excavated or obstruction on or adjoining any public highway, road or street to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.
- J. Violating the Noise Regulations of Section 3 below.
- K. Distributing or throwing upon doorsteps, into doorways, vestibules, yards, enclosures or anywhere within the Township, samples of merchandise of any character whatsoever or handbills, advertising and printed matter of any nature whatsoever without prior authorization by the Board of Supervisors excepting any religious, political or other literature protected as free speech.
- L. Erecting signs or placing items projecting across any walk or any public highway, right-of-way road or street or in places dangerous to life or limb including but not limited to items imposing limitations upon vehicular sight distance.
- M. Permitting and maintaining open vaults, wells, cisterns, drains, failed cesspools and failed septic systems prejudicial to public health.
- 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 drainings 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. This provision shall not apply to the use of conventional outdoor wood burning stoves used in accordance with all state and federal regulations.
- 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.

SECTION 3 - NOISE REGULATIONS-AMPLIFIED SOUND

The following noise regulations shall apply to all amplified sound originating within the boundaries of the Township.

- A. Maximum Permissible Sound Level

No persons shall operate, play or permit the operation of or cause to be operated on public or private property any radio, television, audio equipment, sound amplifier, musical instrument, loudspeaker or any similar device in such a manner as to cause an unreasonable annoyance to persons in the vicinity or in such a manner as to create a sound level which exceeds the limits set forth in the following table when measured at or within the property boundary. Sound levels exceeding the limits set in the following table are hereby declared to be a nuisance.

From 7:00 a.m. to 10:00 p.m.

65 dBA

From 10:00 p.m. to 7:00 a.m.

50 dBA

- B. Sound Measurements

The sound meter shall be operated in accordance with the manufacturer's instructions. The sound meter shall be calibrated. The sound meter shall be operated using the "A" weighting and fast response settings. Readings shall be taken in such a way that traffic noise is factored into the reading.

SECTION 4 - NUISANCE PROCEDURE

- A. Upon receipt of a written, signed (not anonymous) complaint or a complaint presented at a Public Meeting suggesting the occurrence of a nuisance in violation of this ordinance, the Board of Supervisors or their designee shall investigate the complaint to determine if it is an Emergency Nuisance and to determine the merits of the complaint or information. If a complaint is made regarding a violation of Section 3 above, such complaint may be made by telephone to the Township, but may not be made anonymously.
- B. The Board of Supervisors hereby designates each Member of the Board of Supervisors, the Township Secretary and the Township Roadmaster to conduct the investigations required by this ordinance and to determine the status of any such violation.

Subsections C, D and E apply to Non-Emergency Nuisances

- C. If the Board of Supervisors or their designee determine that an illegal nuisance in violation of this ordinance does exist, the Township Secretary shall send notice pursuant to Section 5 to the Property Owner and/or any other Responsible Person identifying the nuisance, specifying the nature of the nuisance, conforming to the requirements of this ordinance and advising that the Township will allow thirty-six (36) days from the date of the letter to cure the nuisance and that such individuals may respond, in writing, and/or appear at the next Public Meeting to respond.
- D. If the nuisance violation is neither cured nor substantial efforts are made to cure within thirty-six (36) days of the date of the letter in C above, nor withdrawn nor held in abeyance by the Township, an administrative fine of Ten Dollars and No Cents (\$10.00) per day may be imposed upon the violating Property Owner and/or any other Responsible Person in addition to any other fine or penalty under Section 6. The Township Secretary shall then send a second letter to the Property Owner and/or any other Responsible Person in accordance with Section 5 including a copy of the first letter and stating that if the nuisance continues and is not cured within twenty-five (25) days following the date of the second letter, the fine shall be increased to Twenty Dollars and No Cents (\$20.00) per day thereafter, in addition to any other fine or penalty under Section 6.
- E. If the nuisance violation is not cured within twenty-five (25) days of the second letter, the Board of Supervisors may authorize the Solicitor at any Public Meeting to take appropriate legal action.

Subsections F and G apply to Emergency Nuisances

- F. If the Board of Supervisors or their designee determine that an Emergency Nuisance in violation of this ordinance does exist, the Township Secretary shall send notice pursuant to Section 5A1, 5A2, 5A3 and 5B to the Property Owner and/or any other Responsible Person identifying the nuisance, specifically the nature of the nuisance, conforming to the requirements of this ordinance and advising that the Township will allow three (3) days from the date of the letter to cure the nuisance and that such individuals may respond, in writing, or in person at the Township Building when it is open to the Township Secretary.
- G. If the nuisance violation is neither cured nor substantial efforts are made to cure within three (3) days of the date of the letter in F above, nor withdrawn nor held in abeyance by the Township, an administrative fine up to One Hundred Dollars and No Cents (\$100.00) per day may be imposed upon the Property Owner and/or any other Responsible Person in addition to any other fine or penalty under Section 6 and the Board of Supervisors shall convene in an Executive Session or in a Public Meeting to authorize the Solicitor to take appropriate legal action.

SECTION 5 - WRITTEN NOTICE TO VIOLATORS REQUIRED

- A. Notice shall be served in one of the following manners:
1. By making personal delivery of the notice to the Property Owner and/or Responsible Person;
 2. By handing a copy of the notice at the residence of the Property Owner and/or Responsible Person to an adult member of the family with which he or she resides, but if no adult member of the family is found, then to an adult person in charge of such residence;
 3. By fixing a copy of the notice to the door at the entrance of the property where the violation is occurring;
 4. By mailing a copy of the notice to the last known address of the Property Owner by certified mail, return receipt requested and by regular mail;
 5. By publishing a copy of the notice in a local newspaper of general circulation within Dauphin County, Pennsylvania, once a week for three (3) successive weeks.
- B. Such notice shall include a copy of this ordinance and shall specify in what respect such condition constitutes a nuisance and what is required by the Township to cure the nuisance (e.g. whether the situation can be corrected by repairs, alterations or by fencing or boarding, or in some way confining and limiting the nuisance).
- C. For a violation of Section 3, notice may be provided telephonically or in person and such notice need not comply with Section 5B.

SECTION 6 - PENALTY FOR VIOLATION; ABATEMENT BY TOWNSHIP; SUIT IN EQUITY; REMEDIES

- A. A Property Owner and/or Responsible Person, after receiving due notice pursuant to Section 5, refuses to comply with the terms thereof may be prosecuted before the local Magisterial District Judge or in the Court of Common Pleas and if he or she shall be found guilty of a violation of this ordinance, shall, upon conviction thereof, pay any administrative fines pursuant to Section 4 and an additional fine of not more than Three Hundred and No Cents (\$300.00) Dollars plus costs including but not limited to the costs incurred by the Township in prosecuting the nuisance, including attorney fees.
- B. The Board of Supervisors may abate the nuisance in its sole discretion and shall certify the costs thereof including but not limited to attorney fees. The cost of

such abatement shall be a lien upon any real property on which the nuisance is found from the time of such abatement which date shall be determined by certification and filed with the Township Secretary.

- C. The Township, by means of a Complaint in Equity may compel the Property Owner of any real property on which the nuisance is found 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 including but not limited to attorney fees and injunctive relief.
- D. The remedies above are cumulative and not subject to any election of remedies by the Township.

SECTION 7 - SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Halifax Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

SECTION 8 - REPEALER

All ordinances or parts of ordinances inconsistent with this Nuisance Ordinance of 2013, including, but not limited to Ordinance 85-4, are hereby repealed insofar as they may be inconsistent herewith.

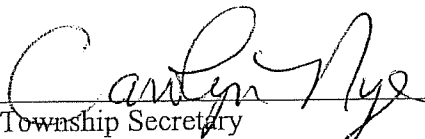
SECTION 9 - EFFECTIVE DATE

This ordinance shall be effective immediately.

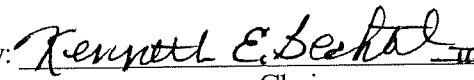
DULY ENACTED AND ORDAINED this 14 day of Oct, 2013, by the Board of Township Supervisors of Halifax Township in public session duly assembled after public hearing held thereon.

ATTEST:

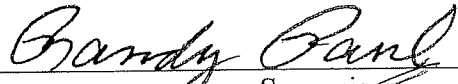
HALIFAX TOWNSHIP
BOARD OF SUPERVISORS,
DAUPHIN COUNTY, PENNSYLVANIA




Township Secretary

By: 

, Chairman

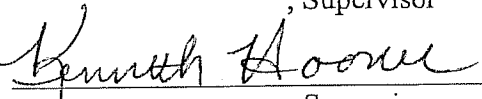


, Supervisor

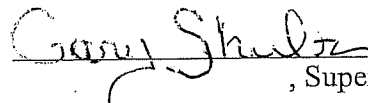


, Supervisor

(Township Seal)



, Supervisor



, Supervisor