

ORDINANCE NO. 2019-01

AN ORDINANCE REPEALING ORDINANCE NO. 2-64 OF THE TOWNSHIP OF MOUNT PLEASANT, AS AMENDED, IN ITS ENTIRETY AND ENACTING A NEW ORDINANCE REGARDING NUISANCES WITHIN THE TOWNSHIP AND PROVIDING FOR THE ENFORCEMENT OF THE ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF

WHEREAS, Section 66506 of the Second Class Township Code, 53 Pa.C.S.A. § 66506 allows the Township to make regulations as may be necessary for the proper management, care, and control of the Township and the maintenance of peace, good government, health, and welfare of the Township and its citizens; and

WHEREAS, Section 66529 of the Second Class Township Code, 53 Pa.C.S.A. § 66529 permits the Township to prohibit any nuisance, require the removal of the nuisance, and remove any nuisance and collect the cost of removal with a penalty of 10% of the costs; and

WHEREAS, the Board of Supervisors of the Township of Mount Pleasant, Adams County, Pennsylvania, deems it to be in the best interest and general welfare of the citizens and residents of the Township to amend Ordinance 2-64 in its entirety regulating nuisances within the Township and providing for the enforcement of the Ordinance and penalties for the violation thereof.

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Mount Pleasant, Adams County, Pennsylvania, and it is enacted and ordained as follows:

SECTION 1: Ordinance No. 2-64 of the Board of Supervisors of the Township of Mount Pleasant, Adams County, is hereby repealed in its entirety.

SECTION 2: 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 tense, words in the plural include the singular, and words in the singular include the plural.

APPLIANCE – A stove, refrigerator, television set, furnace, air conditioner, water heater, water softener, washer, dryer, microwave or any household article used to perform any of the necessary domestic work in a household. The term appliance shall also mean any article used in business to increase production or to speed, ease, or eliminate work, including but not limited to the specific items aforementioned.

ATTRACTIVE NUISANCE – A nuisance that is dangerous or hazardous to young children because of their inability to appreciate peril and may reasonably be expected to attract them to personal or real property.

BOARD OF SUPERVISORS – The Board of Supervisors of the Township of Mount Pleasant

DANGEROUS STRUCTURE – Any building or structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health of persons residing in the vicinity thereof, or is in a condition that presents a fire hazard.

DISCARDED – Any item resting for forty-eight (48) hours outdoors, or in an area that is not fully enclosed, which is not designed for outdoor use or which is not being used outdoors for its intended purpose.

HOUSEHOLD FURNISHINGS – All items normally found and used in a home or residence.

JUNKED – Inoperable, obsolete, or abandoned items that are, being stripped of components, being used or sold for parts, to be sold for scrap, or not being used for their intended purpose.

NUISANCE – The unreasonable, unwarranted, 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 person or property including, but not limited to:

- A. The presence of junk, trash or debris including but not limited to all waste, refuse and discarded materials having only a junk or salvage value, and garbage or waste not contained in a safe sanitary and orderly manner in a proper container for collection.
- B. The presence of abandoned, discarded or unused: equipment, appliances, household furnishings, or other objects.
- C. Maintaining or causing to be maintained upon any unenclosed porch or exterior attachment, furniture, other than furniture designed for exterior use, which is commonly intended for use inside a dwelling including but not limited to upholstered sofas, chairs, davenports, beds, divans and similar items.
- D. Maintaining or allowing any dangerous structures, including but not limited to abandoned, occupied, or unoccupied buildings or parts of buildings.
- E. Maintaining or allowing any building to be unsecured.

- F. Trees, shrubs, or other vegetation overhanging a road right-of-way.
- G. Garbage, garbage containers, trash, recycle containers or yard waste containers, placed in the public right-of-way except for the twenty-four (24) hours immediately prior to the regularly scheduled collection of trash. However, in the event that a property Owner, whose garbage collection occurs at the street frontage, does not have access to the rear yard of the property by any means other than through the interior of the structure on the property, the property Owner may make application to the Board of Supervisors for an exemption from the requirement, that garbage containers remain out of the public right-of-way. An exemption shall only be granted if the property Owner is able to ensure that: (1) the placement of the garbage container will not obstruct a clear path of no less than four feet, (2) the garbage container will not be placed in the cartway, and (3) the garbage container will be covered tightly with a lid at all times and will remain in good condition.
- H. Maintaining or allowing the improper disposal of sewage and wastewater in a manner that does not conform to local ordinance or regulation, or state or federal law.
- I. Maintaining or allowing more than two (2) unregistered, inoperable, or unlicensed motor vehicle(s) on a lot.
- J. The emission of noxious fumes, gas, smoke, ashes, or soot in such quantities as to render occupancy of property dangerous to a person of ordinary sensibilities.
- K. The accumulation of, or improper disposal of animal waste.
- L. All disagreeable and obnoxious odors or stenches, as well as the conditions which give rise to the omission or generation of said odor and stenches.
- M. The improper disposal of the carcasses of animal or fowl.
- N. Dead or dying trees or other vegetation that may cause a hazardous situation if they fall.
- O. Any accumulation of stagnant water.
- P. An attractive nuisance.

OWNER – Any individual, firm, corporation, trust, association, partnership, or other legal entity which alone, or jointly or severally with others, holds legal or equitable title to the Rental unit (the plural use indicates each and every Owner).

PERSON – A natural person, firm, partnership, company, association, trust, corporation, or other legal entity. The singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter, whatever appropriate.

PORCH or EXTERIOR ATTACHMENT – Any area attached to or appended to a building regularly used for dwelling.

TOWNSHIP – Township of Mount Pleasant, Adams County

SECTION 3: Nuisances prohibited.

- A. It shall be unlawful for any person to create, maintain or allow any condition which is a nuisance.
- B. It is further declared unlawful to store, accumulate or keep outdoors on any property, any scrapped or used appliances, household furnishings, unusable machinery, or machinery parts or any other form of discarded, unused, or unusable materials which by their appearance are unsightly.

SECTION 4: Abatement.

- A. Abatement of nuisance by Owner, occupant, or person responsible. Whenever a nuisance is found to exist the Owner or occupant of the property upon which such nuisance exists or the person causing or maintaining the nuisance shall be provided with written notice as provided for herein to abate the nuisance. The nuisance shall be abated by the Owner, occupant, or person causing the nuisance, as applicable, within the time required in the notice.
- B. Abatement of nuisance by Township. In the event the Owner, occupant, or person causing the nuisance, as applicable, shall fail to abate said nuisance, the Township shall take such actions as it deems necessary to abate said nuisance without liability for damage that may result from the abatement. The actual costs of abating said nuisance, including but not limited to actual labor charges, equipment, rental charges, administrative overhead, postage, plus a penalty of ten (10%) percent of the costs and attorney's fees, shall be collected from the Owner of the property either by an action in assumpsit or by the filing of a municipal claim or lien against the said real property. In addition to the above, the Township may, at its sole discretion, by an action in equity, compel the Owner to comply with this Ordinance or seek other relief as a court may order.

SECTION 5: Enforcement; Compliance.

- A. Whenever a condition constituting a nuisance is permitted or maintained in the Township, the Board of Supervisors or the Code Enforcement Official shall cause written notice to be served in one of the following manners:
1. By personal delivery of the notice to the Owner, occupant, or person causing the nuisance, as applicable;
 2. By leaving the notice with an adult upon real property upon which a nuisance exists;
 3. By posting a copy of the notice on a door at the entrance of any building and/or structure located on real property upon which a nuisance exists; or
 4. By mailing by certified mail, a notice to the last known address of an Owner, occupant, or person causing the nuisance, as applicable.
- B. Such notice shall be in writing and include the following:
1. A description of the real property sufficient for identification, upon which the nuisance exists.
 2. A statement of the condition or conditions that constitute a nuisance and why the notice is being issued.
 3. A correction order allowing a reasonable time to abate the nuisance
 4. A statement informing the Owner, occupant, or person causing a nuisance that if it becomes necessary for the Township to abate the nuisance, the Township may file a municipal lien against the applicable real property in accordance with the Municipal Claims Act, 53 P.S. § 7101 *et seq.*
- C. Notwithstanding the foregoing, if the violator has not abated or removed the nuisance within the time period for the removal set forth in the notice, the Code Enforcement Official or Township Board of Supervisors may initiate proceedings against such violator in the office of the appropriate magisterial district justice. The Code Enforcement Official or his designee(s) are hereby duly authorized to issue a ticket in a form established by the Township to any Owner, occupant, or person causing a nuisance, as applicable, violating the provisions of this Ordinance. The ticket shall identify the address of the property where the violation exists, as well as the nature of the violation. The ticket may either be handed to an Owner or occupant of the property or may be affixed to a door on the property where the violation exists fronting a right-of-way or conspicuously posted on the property.

SECTION 6: Violations and penalties.

- A. Any person violating any provision of this Ordinance shall upon conviction thereof be sentenced to pay a fine of not less than \$500 nor

more than \$1,000 for each violation plus costs of prosecution, including but not limited to reasonable attorney fees and restitution (in the event that the Township has abated the nuisance), or upon default of payment of fines, costs and/or restitution, by imprisonment for a period not to exceed ten (10) days.

B. Each day shall constitute a new and separate violation of this Ordinance.

SECTION 7: Remedies; Not Mutually Exclusive.

The remedies provided herein for the enforcement of this Ordinance and/or any other remedy, at law and/or in equity, available to the Township under the laws of the Commonwealth of Pennsylvania shall not be deemed mutually exclusive but rather each remedy may be employed simultaneously or consecutively at the sole discretion of the Township.

SECTION 8: Repealer.

All provisions of previous ordinances of the Township of Mount Pleasant, which are contrary to this ordinance, are expressly repealed.

SECTION 9: Savings Clause.

In all other respects, the ordinances of the Township of Mount Pleasant shall remain as previously enacted and ordained.

SECTION 10: Severability.

The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provision shall not affect or impair any remaining sections, clauses or sentences of the same.

SECTION 11: Effective Date.

This ordinance shall become effective upon adoption.

ENACTED, ORDAINED AND APPROVED this 25th day of APRIL, 2019.

TOWNSHIPTOWNSHIP OF MOUNT
PLEASANT

Richard Fisher J
Chairman

W. Lees
Supervisor

Richard H Baughner
Supervisor

Attest:

Diane L Graft
Secretary