

## **Chapter 10**

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**Part 1****Motor Vehicle Nuisances****§10-101. Definitions.**

For the purpose of this Part 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, the masculine shall include the feminine and the neuter, and the word "shall" is always mandatory and not merely directory.

*Board of Supervisors*—the Board of Supervisors of Washington Township, Cambria County.

*Enclosed building*—a roofed and walled structure built for permanent use.

*Motor vehicle*—any type of mechanical device, propelled by a motor, in which persons or property may be transported on or off public streets or highways, and including trailers or semi-trailers pulled thereby, and including parts thereof.

*Nuisance*—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.

*Owner*—a person owning, leasing, occupying or having charge of any premises within the Township.

*Person*—any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

*Township*—the Township of Washington, which is located within the confines of Cambria County, Pennsylvania.

(Ord. 1-2003, 1/6/2003, §1)

**§10-102. Motor Vehicle Nuisances Prohibited.**

1. No person or owner shall allow a motor vehicle which is unlicensed or not currently inspected, abandoned, or disabled, or any large motor vehicle component, including, but not limited to, engines, transmissions, axle housings, frames or bodies, to remain on any property within the Township for a period in excess of 15 days.

2. It shall be unlawful for any person or owner to maintain a motor vehicle nuisance upon any property within the Township. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and/or has any of the following physical defects:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- C. Any body parts with sharp edges including holes resulting from rust.
- D. Missing tires resulting in unsafe suspension of the motor vehicle as on a

jack or bucking.

E. Broken headlamps or tail-lamps with sharp edges.

F. Protruding sharp objects from the chassis.

G. Broken vehicle frame and/or motor suspended from the ground in an unstable manner.

H. Leaking or damaged oil pan or gas tank which could cause fire or explosion.

I. Exposed battery containing acid.

J. Inoperable locking mechanism for doors or trunk.

K. Open or damaged floor boards including trunk and firewall.

L. Damaged bumpers pulled away from the perimeter of vehicle.

M. Broken grill with protruding edges.

N. Loose or damaged metal trim and clips.

O. Open trunk lids and open engine hood.

P. Unlocked doors or open windows, which can allow children to enter the motor vehicle and then lock themselves inside.

3. It shall be unlawful for any owner of a motor vehicle to place such motor vehicle(s) upon any property in the Township not his own as to constitute a motor vehicle nuisance as described in this Part.

*(Ord. 1-2003, 1/6/2003, §2)*

#### **§10-103. Duty to Serve Notice.**

It shall be the duty of the Board of Supervisors to serve, or cause to be served, a notice, by personal service or by registered or certified mail upon the person in violation of the provisions of this Part, or if the person's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending motor vehicle(s). This notice shall contain a demand for the abatement of the nuisance within 15 days.

*(Ord. 1-2003, 1/6/2003, §3)*

#### **§10-104. Violations and Penalties.**

1. If a person so served does not abate the nuisance within 15 days, he shall be guilty of an offense and, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. *[Ord. 2010-2]*

2. Enforcement of this Part may also be accomplished by any person who, by reason of another's violation of any provision of this Part, suffers special damage to himself different that suffered by other property owners throughout the Township generally, by way of an action to enjoin or otherwise abate an existing violation.

3. The remedies provided for in this Section and §10-105 shall not be deemed mutually exclusive and may be initiated simultaneously or consecutively in any order,

all in the sole discretion of the Supervisors.

(*Ord. 1-2003, 1/6/2003, §4; as amended by Ord. 2010-2, 11/3/2010*)

**§10-105. Abatement Procedure.**

If the person so served does not abate the nuisance within 15 days, the Board of Supervisors may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense of the abatement, and such expense together with a penalty of 5 percent of such expense shall be charged and collected from the person in a manner provided by law, either by filing of a municipal lien or claim by the institution of an action in assumpsit or by relief by bill in equity. The recovery of such cost and expense may be in addition to the penalty imposed as provided in §10-104 of this Part.

(*Ord. 1-2003, 1/6/2003, §5*)

**§10-106. Exceptions.**

This Part shall not apply with regard to any motor vehicle, in an enclosed building or, within a fence constructed to the following specifications:

- A. Fence to be a minimum of 6 feet high.
- B. Fence to be uniformly constructed as to create a presentable appearance.
- C. Fence to be constructed as to prevent view of motor vehicles (one you cannot see through) from public roads or neighboring properties.
- D. Fence to have a locking device on gate.
- E. Fence to entirely surround motor vehicles.
- F. Fence to comply with all rules and regulations set forth the Uniform Construction Code [Chapter 5, Part 1]. [*Ord. 2010-2*]

(*Ord. 1-2003, 1/6/2003, §6; as amended by Ord. 2010-2, 11/3/2010*)



**Part 2****General Nuisances****§10-201. Purpose.**

The purpose of this Part is to prevent, restrain and remove those public nuisances occasioned by the use or maintenance of one person of any condition on land which would tend to or does in fact reduce the value of a neighbor's property or annoy, discomfort or seriously inconvenience neighbors, members of the public or other persons in the legitimate use or pursuit of their reasonable rights of security, safety and comfort on their property.

(Ord. 2-1993, 1/4/1993, §1)

**§10-202. Definitions.**

*Costs of abatement*—costs of construction, demolition or remediation necessary to abate a nuisance, as well as attorney fees, meeting expenses, costs of transcript, hearing, public notice and court costs, as well as consultants or expert witness fees.

*Dangerous structure*—any construction, building or structure which would pose a danger from accidental or spontaneous ignition, or if unoccupied could pose a danger as an attractive nuisance to children including, but not limited to, open excavations, pits, wells or bore holes.

*Nuisance*—any use of real property by a person which deleteriously affects adjoining property or neighboring persons or the general public in the enjoyment of their reasonable expectations of peace, quiet, safety and comfort. It shall also be a nuisance for any person to create or maintain a nuisance upon the property of another person.

*Owner*—any person having an interest legal or equitable in real property, including but not limited to landlords, lessees, or persons possessing a security interest in property.

*Person*—any individual, corporation, partnership, limited partnership, association or other entity, recognized at law and having the legal right to own, possess or control real property.

*Real property*—any land or estate in land, or interest in such land or estate, including, but not limited to, surface, mineral, oil, gas or right of support, air rights, or remainder or reversing interest.

*Substandard dwelling*—any structure utilized as a regular habitation for persons which does not have available a sufficient potable, non-contaminated water supply, or adequate, working on-lot sewage disposal facilities or a tap to a public sewage system. The terms shall not refer to hunting camps or other facility not regularly used for human habitation.

(Ord. 2-1993, 1/4/1993, §2)

**§10-203. Complaint, Hearing and Finding of Nuisances.**

1. Upon written, signed complaint of any resident of the Township or upon their own investigation the Board of Supervisors may issue a preliminary finding of nuisance,

which shall include:

- A. The names of parties in interest to the extent known.
- B. Location of the property.
- C. Type of nuisance complained of with specific reference to section of ordinance.
- D. Remedy sought or proposed.
- E. A date no more than 30 days from the date of at which the owner may request a hearing before the Board of Supervisors.
- F. That, if no hearing is requested that the Supervisors will make a finding the nuisance exists.

Except in cases involving a case of a per se nuisance or an imminent threat, the Supervisors shall take no action within the period of time set forth in paragraph .E above. In the case of imminent threat or nuisance per se, the Supervisors may make order immediate remediation or take immediate corrective action.

2. *Hearings.* Hearings before the Board of Supervisors shall be conducted under oath, with a stenographic record. The rules of evidence shall not be strictly followed, where to do so would exclude evidence which the Supervisors feel has probative value. The Supervisors may, if they choose, appoint one of their members or any other Township official to conduct the hearing and make recommendations, in writing, to the Township. Notice of hearing shall be mailed to the person requesting the hearing and posted at the Township building. Any party interested in the case may receive notice of hearing by delivering a stamped, self-addressed envelope to the Township Secretary together with a written request for notice. Requests for hearings shall be accompanied by a hearing fee to cover cost of transcript and to the extent that the transcript fee exceeds the deposit, the requesting party shall pay the balance upon invoice. The hearing fee deposit shall be in an amount as established from time to time by resolution of the Board of Supervisors. In absence of payment, such cost may be assessed as a municipal lien. Any unexpended amounts shall be returned to the person paying the fee. [Ord. 2010-2]

3. *Finding of Nuisance.*

A. *Nuisance, per se.* Constitute actions which the Township finds to be exceptionally harmful or contrary to existing law or ordinance, and which require action to be taken to correct in advance of hearing. It shall be a nuisance per se for any person or owner of real property to create, maintain, permit or fail to abate any of the following conditions upon or within real property located in the Township:

- (1) Pollution of water.
- (2) Pollution of air.
- (3) Use of explosives in a manner in which the force or sound of the explosion leaves the property causing damage to adjoining property or substantial annoyance to persons.
- (4) The deposition or maintenance of trash, rubbish, garbage, solid waste or other material having no useful purpose on or in property whether the person owns the property except pursuant to a DEP permit issued pursuant to the Solid Waste Management Act, 35 P.S. §6018.101 *et seq.* [Ord. 2010-2]

(5) Interference, obstruction or destruction of a public road or right-of-way.

(6) The storing, maintenance of hazardous, radioactive or noxious materials upon property in a manner in which they may escape into air, surface or ground water, or neighboring public or private property.

(7) Placement of fill or obstructions in a stream, wetland, floodplain or drainage way.

B. *General Nuisance.* Constitute nuisances and activities which may be tolerated pending the outcome of a hearing described in §10-106.

(1) Maintenance of a dangerous structure upon one's property.

(2) Occupation of a substandard dwelling.

(3) Connections or additions to public water systems which are not specifically approved by the public water suppliers.

(4) Connection of a well or other source of water or fluid to a public water supply by cross connection or otherwise without adequate and approved back flow prevention device.

(5) Keeping of vicious and dangerous animals.

(6) The repeated generation of noise above 130 decibels as measured at the nearest property boundary.

(7) The use of fire where smoke or by-products of combustion or particulates therefrom enter onto property of another. It shall not be a defense hereunder that a sudden gust of wind or unanticipated atmospheric or other condition contributed to the nuisance.

(8) The use of outdoor lighting between the hours of 8 p.m. and 6 a.m. prevailing local time for other than temporary or emergency purposes unless the lights are located or shielded so as to prevent glare into neighboring residences or barn yards.

(9) The operation of heavy equipment without adequate mufflers.

(10) The operation of heavy equipment within 1,000 feet of a residence between the hours of 8 p.m. and 6 a.m., local prevailing time except in an emergency situation where the safety of persons, animals or property is at stake.

(Ord. 2-1993, 1/4/1993, §3; as amended by Ord. 2010-2, 11/3/2010)

#### **§10-204. Penalties.**

Any person engaging in a nuisance described in §10-104 shall, upon having received prior notice from the Township of the same, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$50 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues after notice or each Section of this Part which shall be found to have been violated shall constitute a separate offense. Provided, however, the court or magisterial district judge may in its reasonable

discretion waive such fines where the offender is able to show a good faith effort to mitigate the effects of the nuisance following notification.

(*Ord. 2-1993, 1/4/1993, §4; as amended by Ord. 2010-2, 11/3/2010*)

#### **§10-205. Remedies.**

1. The remedies herein are deemed to be cumulative and the choice of remedy to pursue shall rest with the sole discretion of the Board of Supervisors, except to the extent that private enforcement is allowed under §10-207 of this Part.

2. The pursuit of one remedy by the Township shall not be deemed a waiver of other remedies, and efforts or agreements for mitigation shall not preclude later actions to cause a nuisance to cease or for any other remedy.

A. *Fines.* In the event of a nuisance per se or for a general nuisance after hearing, the Supervisors may, assess a fine and costs of abatement and cause the same to be reduced to judgment in an action before the magistrate.

B. In the event of a nuisance per se or for a general nuisance after hearing, the Supervisors may themselves or through their contractors enter onto property to remedy the nuisance and cause the costs of the same including attorneys fees and any costs to be assessed against all responsible persons as a municipal lien; provided, that no municipal lien shall be filed until the responsible party has had notice and opportunity for a hearing.

C. In the event of a nuisance per se or for a general nuisance after hearing the Supervisors may apply to the Court of Common Pleas for an injunction preventing the continuing of the nuisance, ordering remediation of the nuisance on the cessation of interference with statement.

(*Ord. 2-1993, 1/4/1993, §5*)

#### **§10-206. Procedural Rights or Discretionary Acts.**

Procedural rights or discretionary acts of the Supervisors pursuant to this Part shall not constitute a waiver or approval of any activity governed by this Part.

(*Ord. 2-1993, 1/4/1993, §6*)

#### **§10-207. Private Enforcement.**

1. This Part is intended as remedial legislation of the Township and in order to provide the greatest possible protection to the citizens and residents of the Township in the face of limited Township resources, it is intended that the declaration of nuisances contained in §10-204 of this Part constitute legislative findings of the Township as to public nuisances and that any resident of the Township may maintain an action in the Court of Common Pleas of Cambria County to prohibit or restrain the Commission of the same or to collect compensation for injury to person or property occasioned by the Commission or maintenance of such nuisance.

2. Any citizen, resident or property owner in the Township who believes that a nuisance is being created or maintained in the Township which harms a legitimate interest of the complainant or an interest as a citizen of the Commonwealth as set forth in Article 1, §27, of the Pennsylvania Constitution may make a written complaint on a form provided by the Township to the Township Secretary setting forth the essence

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of the problem and identifying the person responsible for the same. Unless the Supervisors act sooner as provided in §10-203 above, the citizen signing the complaint shall have an opportunity to present evidence at the next regularly scheduled Supervisors meeting at which time the Supervisors shall determine whether a preliminary order shall issue as provided for in §10-203.1 of this Part.

*(Ord. 2-1993, 1/4/1993, §7)*



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**Part 3****Fireworks Display Permits****§10-301. Permit Required for Fireworks Display.**

It shall be unlawful for any person, persons, firms or corporations, amusement parks, fair associations or other organizations or groups of individuals, to have or to hold public displays of fireworks within the limits of the Township of Washington ("Township"), unless a permit therefor is first granted by the Board of Supervisors of Washington Township ("Board"), as hereinafter provided.

(Ord. 5-2007, 11/7/2007, §1)

**§10-302. Safety of Persons and Property.**

Every such display within the limits of the Township shall be handled by a competent operator, and which display shall be of such character and so located, discharged or fired, as in the opinion of the Board, or their duly authorized representative, after proper inspection, shall not be hazardous to property or endanger any person or persons.

(Ord. 5-2007, 11/7/2007, §2)

**§10-303. Application for Permit.**

Application for permits shall be made in writing to the Township's Secretary at least 30 days in advance of the date of display, setting forth the proposed location of the display, the character thereof, name and address of the operator, and the name and address of the owner or owners of the grounds on which the display is to be held, with the consent of such owner or owners thereto in writing attached. All applicants shall pay the Township Secretary a permitting fee, to be established by resolution of the Board, before issuance of a permit and provide proof of liability insurance.

(Ord. 5-2007, 11/7/2007, §3)

**§10-304. Permit is Nontransferable.**

If and after such permit shall have been granted by Board or its designee, possession, sale, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(Ord. 5-2007, 11/7/2007, §4)

**§10-305. Bond Required.**

The Board shall require a bond deemed adequate by it given by the permittee or licensee in an amount deemed appropriate by the Board of Supervisors but will not be in a sum less than \$1,000,000 conditioned for the payment of all damages caused to any person or persons, and to any property by reason of the licensed display and arising from any acts of the licensee, his or its agents, employees, or subcontractors, which bond shall be filed with the Township Secretary before any permit for a supervised public display of fireworks is delivered.

(*Ord. 5-2007, 11/7/2007, §5*)

**§10-306. Request for Continuance.**

If by reason of unfavorable weather the display for which a permit has been granted does not take place at the time so authorized, the person to whom such permit was issued may within 24 hours apply to the authority having granted the same, setting forth under oath the fact that such display was not made, giving the reason therefor, and requesting a continuance of such permit for a day designated therein, not later than 1 week after the day fixed originally in said permit. Upon receiving such application for a continuance the Board or its designee, if it believes the facts stated therein are true, shall extend the provisions of said permit to the day fixed in said application, not later than 1 week after the original day designated in the permit, and such extension of time shall be granted without the payment of any additional fee and without requiring any bond other than the one given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of said display taking place at such extended date in the same manner and to the same extent as if such display had taken place at the date originally fixed in the permit.

(*Ord. 5-2007, 11/7/2007, §6*)

**§10-307. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 5-2007, 11/7/2007, §7; as amended by Ord. 2010-2, 11/3/2010*)