

ORDINANCE NO. 6 - 2019

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MIDDLESEX
TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA, PROHIBITING
CERTAIN NUISANCES.

BE IT HEREBY ENACTED AND ORDAINED and it is hereby enacted and ordained by
the Board of Supervisors of Middlesex Township as follows:

SECTION 1: LEGISLATIVE AUTHORITY.

This Ordinance is enacted pursuant to the power of the Board of Supervisors of Middlesex Township to prohibit nuisances on private and public property, including public roadways, in accordance with the Second Class Township Code; namely 53 P.S. §66529, 53 P.S. §66533 and 53 P.S. §67326, and to establish ordinances necessary for the health and welfare of Middlesex Township and its citizens pursuant to 53 P.S. §66506.

SECTION 2: PURPOSE.

The Board of Township Supervisors deems it best for the health, general welfare, cleanliness and safety of the Township, its residents and visitors, to adopt an ordinance related to certain nuisances, and finds:

- A. That the existence of water emanating from private property by either natural causes or sources, or from man-made diversion, pumping or release that runs on, accumulates or is deposited in or on the cartway, shoulder and/or roadway right-of-way, creates a dangerous and unsafe condition for motorists and others lawfully traveling within or on the cartway, shoulder and/or right-of-way because of the existence, volume and/or velocity of such water or the freezing of such water;
- B. That buildings and structures, including, but not limited to, residences, dwellings, garages, modular, manufactured or mobile homes, sheds, barns, commercial buildings and industrial buildings, which have been damaged by wind, fire or other causes, become abandoned, dilapidated, decayed, unsafe and/or unsanitary so as to become uninhabitable, whether or not providing a haven for insects, rodents, vermin, feral cats and other animals, are dangerous to life and safety of occupants, neighbors or other people in the the Township;
- C. That the accumulation of trash, garbage, rubbish, combustible or non-combustible waste material, including but not limited to paper, rags, boxes, cartons, tree branches, yard trimmings, glass, metal, cans, equipment, appliances, parts, animal or vegetable waste, litter and/or plastic, on public or private property provides a haven for insects,

rodents, vermin, vectors and animals, negatively affects property values, creates odors, health issues and fire hazards dangerous to the life, health and safety of occupants, neighbors and other people in the Township; and

- D. That the failure to maintain private streets in residential developments, mobile home communities, apartment complexes and similar areas where private road are to be maintained by a private person makes traversing such private streets difficult and dangerous for persons by vehicle, foot and other means, can subject persons, property and vehicles to injury and damage and can jeopardize the efforts of municipal employees, police, EMS, fire personnel and other first responders.

SECTION 3: DEFINITIONS.

The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this Section:

BOARD OF SUPERVISORS or SUPERVISORS – the Board of Supervisors of the Township of Middlesex.

TOWNSHIP – The Township of Middlesex.

BUILDING – a structure, either temporary or permanent, used or occupied as a roofed shelter without walls or a roofed enclosure with walls for persons, animals or property. The word “building” shall be construed as if followed by “or any part thereof”.

DANGEROUS STRUCTURE or DANGEROUS STRUCTURES – All buildings or structures, including, but not limited to, residences, dwellings, modular, manufactured or mobile homes, garages, sheds, barns, commercial buildings and industrial buildings, which have one or more of the following defects or conditions:

- (1) Those which have been damaged by fire, wind or other cause so as to fail to provide the amenities essential to decent living and are unfit for human habitation;
- (2) Those which have been damaged by fire, wind, or other cause so as to have become dangerous to the life and safety or the general health and welfare of the occupants, neighbors or other people of the Township;
- (3) Those which have become or are so dilapidated, unsafe, unsanitary, or which fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to incur injury to the health, safety, or general welfare of the people of the Township;
- (4) Those which have parts thereof which are so attached that they might fall and injure neighbors, members of the public or cause damage to adjoining property;

- (5) Those that have been abandoned and not maintained that provide a shelter or haven, whether temporary or not, for insects, rodents, vermin, feral cats and/or other animals, vagrants or trespassers; and
- (6) Those which because of their general condition are unsafe, unsanitary, or dangerous to the health, safety or general welfare of the citizens, residents and visitors to the Township.

PERSON – A natural person, firm, partnership, limited partnership, limited liability partnership, limited liability corporation, association, corporation, trust or other legal entity.

PRIVATE STREET – Any street that has not been accepted or maintained as a public street by the Township or the Commonwealth of Pennsylvania.

RUBBISH- Combustible and noncombustible waste material, garbage; the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin or metal cans or containers, metals, mineral matter, glass, crockery, dust, plastic, plastic containers, construction debris, household items not intended for exterior use, as well as those items listed in Section 2.C, above and other similar materials.

STRUCTURE – A man-made object having an ascertainable, stationary location on or in land or water, whether or not affixed to the land, or something located on the land. The word “structure” shall include buildings, fences, walls, towers, swimming pools, porches, garages or the like, or any part thereof.

SECTION 4: NUISANCES.

- A. The existence of water emanating from private property by either natural causes or sources, or from man-made diversion, pumping or release that runs on, accumulates or is deposited in or on the cartway, shoulder and/or roadway right-of-way, creates a danger to motorists and others lawfully traveling within or on the cartway, shoulder and/or right-of-way because of the existence, volume and/or velocity of such water or the freezing of such water, is declared to be a nuisance.
- B. Dangerous structures are hereby declared to be a nuisance and shall be repaired, vacated, secured and/or demolished.
- C. The storage or accumulation of rubbish is hereby declared to be a nuisance, excepting any small quantity of normal household solid waste properly stored in an appropriate, air tight container on a temporary basis for purposes of its immediate later proper removal and disposal, and further excepting compost for use on the property where composting is performed.
- D. The failure to maintain private streets in residential developments, mobile home communities, apartment complexes or similar areas where private roads are to be maintained by a private person or persons, to the extent that the passage of persons or of motor vehicles thereon operated by persons, municipal employees,

police, EMS, fire personnel and other first responders is dangerous, difficult or impossible, or renders a person, property or motor vehicle disabled, immovable or subject to injury or damage, is hereby declared to be a nuisance. This provision shall not apply to any private street for which there is a maintenance agreement obligating all persons for whom access or use of the private street is permitted to maintain said private street.

SECTION 5: ENFORCEMENT PROCEDURES.

- A. Notice. Whenever a condition constituting a nuisance is maintained, the Township Zoning Officer, the Assistant Township Zoning Officer or any Township Police Officer, shall cause written notice to be served upon the owner and the occupant of the property, if applicable, in one of the following manners:
- (1) By making personal service or delivery of the notice to the owner, and, if applicable, to the occupant of the premises; or
 - (2) By mailing a copy of the notice to the last known address of the owner, and, if applicable, the occupant, by United States Certified Mail, return receipt requested, and also by mailing a copy of said notice by United States First Class Mail, as evidenced by a postal certificate of mailing. The notice required by this section shall be sent to the owner or owners at the last known address according to the real estate tax records of the Township. If the copy mailed by certified mail is returned to the Township as being refused, unclaimed or for any other reason other than it was not properly addressed or that it lacked proper postage, and, the mailing of the notice by regular first class mail was not returned, service by mail under this Section A.(2) shall be considered properly accomplished.
 - (3) In addition to service of the notice being given by either (1) or (2), above, service shall be made by posting a copy of the notice and order in a conspicuous place visible to the public and to any owner or occupant of the property on the property which is the subject of the notice and order.
- B. Order to correct. Such notice shall contain an order to correct which shall include:
- (1) A description sufficient to identify the condition and location of the condition;
 - (2) An order to such owner and/or occupant to take action to correct the condition within a specified time no less than within 10 days after the date of the notice and, thereafter, to comply fully with its terms and the notice with reasonable diligence as is deemed necessary by the Township to correct the condition under the circumstances;

- (3) A warning substantially to the effect that if the condition is not corrected within the time fixed in the order, the failure to correct the condition could result in the imposition of a fine, court costs and legal fees, and, in addition, could result in the condition being abated by the Township as a public nuisance at the cost and expense of the owner of the property; and
- (4) Both the owner and the occupant shall be responsible for carrying out or complying with the order.

SECTION 6: VIOLATIONS AND PENALTIES.

Enforcement of any violation of this Ordinance shall be by an action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate any provision of this Ordinance, upon conviction thereof, shall be sentenced to pay a fine in an amount not to exceed \$1,000 per violation and the costs of prosecution, and, in default of payment of such fine and costs of prosecution, shall undergo imprisonment of not more than 90 days; provided, further, that each day's continuance of a violation shall constitute a separate offense.

SECTION 7: EQUITABLE REMEDY.

The Township, upon direction of the Township Manager or Supervisors, by means of a complaint in equity in the Court of Common Pleas of Cumberland County, may compel the owner and, if applicable, the occupant of the premises, to comply with the terms of any notice of violation, or otherwise may seek any such other relief, including all costs of suit and legal fees.

SECTION 8: CORRECTION OF CONDITION BY TOWNSHIP.

In addition to any other penalties and remedies set forth in this Ordinance, any person who shall create, continue, maintain, or permit a nuisance as declared in this Ordinance on their or its premises within the Township, as applicable, and/or permits such conditions to exist and continue unabated, shall within 10 days or such greater reasonable time as determined by the Zoning Officer, Assistant Zoning Officer or Township Police Officer, after notice and order, to do so, legally remove the same and legally dispose of any rubbish or debris from the same as required by law or ordinance, as applicable. If such owner shall fail, neglect or refuse to comply with the provisions of the notice and order within the time limit set forth, the Township shall have the authority, in person or by their agents and/or employees, to abate the nuisance and in so doing, shall have authority to enter upon the property of such person in default and, thereupon, the Township shall collect the cost and expense of such removal from any owner who created, continued, caused, maintained or permitted such violation to exist, by the filing of a municipal claim in the manner provided by law for the collection of municipal claims or by a civil action. In addition to such costs and expenses, such claim shall include a penalty of ten (10) per centum of such costs and expenses, attorney's fees, interest and filing costs as provided by law for municipal claims.

SECTION 9: REMEDIES NON-EXCLUSIVE.

The imposition of the remedies or penalties in this Ordinance are not exclusive, but cumulative, and the exercise of one remedy or penalty shall not preclude the Township from instituting an appropriate action in law or equity, or taking appropriate action under this Ordinance or otherwise, to restrain, correct or abate the violation.

SECTION 10:

Except only as amended, modified and changed by this Ordinance, all ordinances or parts of ordinances not inconsistent herewith shall remain in all other respects in full force and effect.

SECTION 11:

The provisions of this Ordinance shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Ordinance.

SECTION 12:

This Ordinance shall become effective upon enactment.

DULY ENACTED AND ORDAINED this 31st day of May, 2019 by the
Board of Township Supervisors of the Township of Middlesex in public session duly assembled.

TOWNSHIP OF MIDDLESEX

By: 
Chairman, Board of Township Supervisors

ATTEST:


Eileen Gault, Secretary

(Township Seal)