

Ordinance No. 2013-04

AN ORDINANCE AMENDING THE NUISANCE(S) ORDINANCE NUMBER 87-5 AND 2012-03; AN ORDINANCE PROHIBITING VEHICULAR AND NON-VEHICULAR NUISANCES WITHIN HAMILTONBAN TOWNSHIP; DEFINING SAID NUISANCE; AND PROVIDING PENALTIES AND REMEDIES FOR VIOLATION OF THE ORDINANCE, BY PROVIDING NEW CRITERIA FOR NUISANCE(S) FOR THE ENFORCEMENT OF SAID ORDINANCE.

BE IT ENACTED AND ORDAINED, by the Supervisors of Hamiltonban Township, Adams County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, as follows:

Section 1 - DEFINITIONS AND WORD USAGE

A. **DEFINITIONS** as used in this ordinance, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

ABANDONED is any motor vehicle resting for ninety-six (96) hours or more and which is inoperable, or without current registration plates, or without current certificate or inspection sticker or in such a condition as to be unusable.

DANGEROUS STRUCTURE is any building or structure which is dangerous and unsafe for human occupancy, constitutes a fire hazard, endangers surrounding buildings, shelters rats or other vermin or endangers the safety of children playing in the vicinity.

INOPERABLE MOTOR VEHICLE is a vehicle which cannot be driven upon the public streets for any reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LESSEE is the owner, for the purpose of this ordinance, when a lessor holds a lessee responsible for the maintenance and repairs.

MOTOR VEHICLE is any type of mechanical device propelled by a motor in which persons or property may be transported upon roads, streets, lanes or highways, including a trailer or semi-trailer pulled thereby that are subject to registration in the Commonwealth.

NUISANCE is the unreasonable, unwarranted or unlawful use of public or private property or any activity or condition that is harmful or annoying to others, or that interferes with the comfortable enjoyment of life in the community. The nuisance may constitute a threat or potential threat to the health, safety or welfare of the citizens of the township.

OWNER is the actual owner, agent or custodian of the property whether individual or partnership, association or corporation.

PERSON is a natural person, firm, partnership, association, corporation, club, co-partnership, society, or any other legal entity or organization of any kind.

ROAD OR TOWNSHIP ROAD is a street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrian whether public or private.

SUBSTANCE includes grass clippings, dirt, debris, mud or other substance from tires, the undercarriage of vehicles, and any such substance which may fall from, be thrown from, or otherwise leaves a vehicle, or occurs through activities on land, except as herein provided.

TOWNSHIP is the Township of Hamiltonban, Adams County, Pennsylvania.

VEGETATION is any grass, weed or vegetation whatsoever, including trees and shrubbery which is not edible or planted for some useful or legal purpose.

B. **WORD USAGE** - In this ordinance, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

Section 2 - MOTOR VEHICLE NUISANCES DECLARED ILLEGAL AND PROHIBITED

It shall be unlawful for any person, owner or lessee or otherwise possesses a motor vehicle, to park, store or leave any motor vehicle nuisance upon public property or upon the open private grounds of such person, owner or lessee within the Township that can be seen from any public road, street, lane, stream or public property. A "motor vehicle nuisance" shall include any vehicle of any kind which is inoperable, or unable to move under its own power, or has no valid motor vehicle inspection sticker, or no current license plate, or no valid registration card, or is wrecked, or dismantled, or partially dismantled, or abandoned, or in a state of disrepair meaning the condition of the vehicle is being worn out or in poor working order requiring repairs, or in a state of neglect or dilapidation at the time of the alleged violation or citation. Motor vehicle nuisances include but are not limited to any vehicle with:

- Broken windshields, mirrors or other glass, with sharp edges.
- Broken headlamps, tail lamps, bumpers or grills with sharp edges.
- One (1) or more flat or open tires or tubes which could permit animal harborage.
- Missing tires resulting in unsafe suspension of the motor vehicle.
- Any body parts, truck, firewall or floorboards with sharp edges or large holes resulting from rust.
- Protruding sharp objects from the chassis.
- Missing doors, windows, hood, trunks or other body parts that could permit animal harborage.
- Any vehicle suspended by blocks, jacks or other such materials in a location which may pose a danger to the public, property owners, visitors or residents of the property on which said vehicle is found.
- Any excessive fluids leaking from the vehicle which may be harmful to the public or the environment.

- Disassembled body or chassis parts stored in, on or about the vehicle.
- Or is a nuisance as defined in Section 1.A.

STORAGE OF VEHICLE NUISANCE

Any person, owner or lessee who has one (1) or more motor vehicle nuisance as defined may store such vehicle(s) in the Township only in strict compliance with the regulations provided herein. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or outside within a fence of a minimum of six (6) feet high that obstructs the view of the vehicle and which is locked at all times when unattended. The motor vehicle nuisance may not be visible at any time of the year from a public place or public right-of-way or road. In addition, all gas and oil or other flammable liquid must be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. This section is not intended to conflict with the provision of any Township Junkyard Ordinance for a limited number of vehicle nuisances.

Section 3 - NON MOTOR VEHICLE NUISANCES DECLARED ILLEGAL AND PROHIBITED.

The following uses of and activities upon real property in the Township are nuisances and are hereby declared to be illegal and are prohibited. Nuisances including, but not limited to:

A. Storing of the following:

1. Garbage or rubbish which includes junk material, including, but not limited to, unused or abandoned machinery, equipment or appliances, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvageable materials, unless such items are held for resale, in a manner such that they cannot be seen from any road, street, lane, stream or any other bodies of water or public property.
2. A person may not maintain or permit to maintain, a privy vault, cesspool, well, cistern, rain barrel, tires or any other receptacle containing water and/or material suitable as breeding habitat for mosquitoes, flies or any vermin whatsoever, unless the receptacle is constructed or maintained in a manner to prevent the breeding of mosquitoes, flies or any vermin whatsoever.
3. The storage of gasoline, kerosene or other petroleum products in excess of one-thousand-five hundred (1,500) gallons unless such storage is by a business holding an appropriate State or Federal license for excess storage.
4. The excessive or unreasonable accumulation of scrap, junk, discarded material, trash or garbage upon any premises, causing odor, fumes, or unsightly appearances or is unpleasant or unattractive to look by the general public or average, ordinary people in society.

- B. Any use of or activity upon property that by reason of flames, smoke, odors, fumes, noise or dust unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health or safety of the occupants of a neighboring property; offensive uses shall not include farming or other allied occupations or any pre-existing businesses.
- C. The lack of maintenance of any primary residential dwelling, including building or part building that is a dangerous structure or in a state of dilapidation or disrepair.
- D. Allowing trash dumpsters or waste containers to overflow or to be kept or maintained without lids so as to prevent accidental fire or malicious mischief.
- E. Any contractor, builder, developer, landowner, tenant or any other person or corporation who places, deposits or causes the placement or deposit of any dirt, debris, mud or other substance on any Township roads. Deposits resulting from normal agricultural activities including the placement or deposits that originate from the tires or undercarriage of farm equipment shall be exempt from the provisions and requirements herein, provided, however that any deposit of substance that creates a safety hazard will be subject to enforcement.
- F. Depositing, placing, dumping, throwing, pushing, shoveling, casting, plowing, and/or allowing the migration or filtering onto any traveled portion of any road or Township road, any substances and/or items, including but not limited to ice, snow, soil, grass clippings, ash, stone, trash, refuse, rubbish, junk, overgrown tree limbs and shrubs or any other debris or like substance, both natural and artificial, in such a manner, so as to hinder or interfere with the use of, block or obstruct any road or Township road or other Public Way and allowing same to remain thereon.
- G. Allowing for interference and/or obstruction of traffic-control devices, such as but not limited to "STOP" signs by overgrown trees, brush, plants, shrub, vegetation and/or other obstruction.
- H. Drainage or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water drainage of any kind of nature whatsoever, from property along any road or Township road or other Public Way or from any property into or upon any adjoining property.

Section 4 - BRUSH, GRASS AND WEEDS

- A. No person, firm, partnership or corporation owning or having a present interest in or occupying any real estate or lot on which a residential dwelling unit is located where such residential dwelling unit is within two-hundred (200) feet of any other residential dwelling unit shall permit any lawn grass or weeds or vegetation not edible or planted for some useful or ornamental purpose to grow or remain on such premises so as to exceed a height of ten (10) inches or to conceal any debris or to create or to produce pollen. All such vegetation is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the township; provided, however, that weeds or grass

intermingled with growing cultivated crops on agricultural land or land in agricultural use shall not come within the provisions of this ordinance.

- B. The owner of such premises, whether occupied by the owner or not, shall be responsible to remove, trim or cut all vegetation growing or remaining on such premises in violation of the provisions in Subsection A of Section 4. Both the owner and the occupant, in the case of premises occupied by other than that of the owner, shall be jointly responsible for the compliance with this section.

Section 5 - INSPECTION: NOTICE TO COMPLY

- A. The Township Supervisors, the secretary, the police officer(s) servicing the Township or any other enforcement officer appointed by the Township Supervisors is hereby empowered to inspect grounds and property from the public road and in plain sight to determine if there are violations of this ordinance.
- B. If noncompliance with the provisions of this ordinance constitutes a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, said individual mentioned Subsection A of Section 5 above shall issue a written notice, to be served by registered or certified mail, upon the owner of said premises, or if the owner's whereabouts or identity is unknown, by posting the notice conspicuously upon the offending premises. Said notice shall specify the condition or structure or improvement or nuisance complaint of and shall require the owner to commence to move or otherwise rectify the condition, structure or improvement as set forth therein within fifteen (15) days of mailing or posting of said notice, and therefore to fully comply with the requirements of the notice.

Section 6 - TOWNSHIP AUTHORITY TO REMEDY NONCOMPLIANCE

If the owner of the property on which motor vehicles are stored or in which a nuisance, condition or structure or improvement does not comply with the notice to abate the conditions within the time limit prescribed, the Township shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all cost. The Township, in such event and pursuant to its statutory or otherwise authorized police power, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

If the owner and/or occupant of grounds on which the nuisance is related to Section 4 Brush, Grass and Weeds, shall neglect to comply with such notice within fifteen (15) days, any duly authorized employee of the Township or contractor hired by the Township shall be authorized to enter upon the property in violation and remove, trim or cut such grass, weeds or vegetation so as to comply with the provisions of this ordinance. The reasonable cost thereof, together with an additional penalty of 10% of reasonable costs may be collected by the Township from such owner or occupant as a penalty under the provisions of this ordinance or in any other manner provided by law. This right, as herein vested in the Township, shall be in addition to penalties

predescribed by the provisions of this ordinance for the conviction of the owner or occupant as aforesaid to comply with the terms of this ordinance.

Section 7 - VIOLATIONS AND PENALTIES

Any person who shall violate any provisions of this ordinance shall, upon conviction thereof, before a district magistrate, be sentenced to pay the original fine and a minimum fine of two-hundred (\$200) dollars, all costs incurred by the Township for the corrective action, plus reasonable attorney fees. Each day that a violation of this ordinance continues shall constitute a separate offense.

Section 8 - ADDITIONAL REMEDIES

In addition to such other remedies as shall be provided for herein the Township shall have the right to institute proceedings in law or in equity in a court of appropriate jurisdiction to enforce the provisions hereof. The remedies provided herein for the enforcement of this ordinance or any remedies provided by law shall not be deemed mutually exclusive; rather, the remedies may be employed simultaneously or consecutively at the option of the Township Supervisors.

Section 9 - SEVERABILITY

The provisions of this ordinance shall be severable and if any of its provisions shall be held to be unconditional or illegal, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby declared as a legislative intent that this ordinance would have been adopted had such unconstitutional or illegal provisions not been included herein.

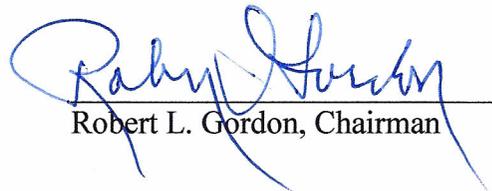
DULY ENACTED AND ORDANED this 6th day of August, 2013, by the Board of supervisors of Hamiltonban Township, Adams County, Pennsylvania.

ATTESTED:

HAMILTONBAN TOWNSHIP



Deborah K. Feiler, Secretary



Robert L. Gordon, Chairman