

Upon motion by Brian P. McGrath, seconded by Richard P. Figaski, the following Ordinance was duly enacted, 2 voting in favor of enactment, 0 voting against enactment.

**ORDINANCE NO. 2015-8**

**An Ordinance to prohibit public nuisances, generally and in situations involving the carrying on of any offensive manufacture or business and/or actions upon properties which harm or create risks of harm to the public; granting the power to remove any nuisance or dangerous structure on public or private property after notice to the owner thereof to do so and, in the owner's default, to collect all costs of such removal; including penalties for violation and provisions for severability and repealor.**

**WHEREAS**, Section 1529 of the Second Class Township Code, 53 P.S. § 66529, authorizes townships of the second class to prohibit nuisances, to remove any nuisance or dangerous structure on public or private grounds after notice to the owner thereof to do so and, in the owner's default, to collect the cost of such removal, together with proper penalties, from the owner and, if deemed necessary, to institute proceedings in courts of equity; and

**WHEREAS**, on April 4, 1995, the Board of Supervisors enacted Ordinance No. 95-9 as now amended, for the purpose of prohibiting nuisances in the Township of Millcreek; and

**WHEREAS**, the Board of Supervisors finds that the present state of the law and society call for revisions to the prohibition of nuisances and the exercise of the Township's powers in such matters; and

**WHEREAS**, in order to protect the health, safety, property and welfare of the citizens of Millcreek Township, the Board of Supervisors has determined that Ordinance No. 95-9 should be repealed and superseded by a new ordinance prohibiting nuisances in the Township and regulating their removal.

**BE IT ENACTED AND ORDAINED** by the Supervisors of Millcreek Township, Erie County, Pennsylvania as follows:

1.01 Common Name. This Ordinance shall be known as the Nuisance Ordinance.

1.02 Interpretation; Definitions.

1.02.1 Where not defined in this or in another Millcreek Township ordinance or applicable statute of the Commonwealth, terms shall be given their ordinary, customary and common meaning.

1.02.2 Terms Defined. The following words, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates otherwise.

- (1) "Compost" - relatively stable decomposed organic matter.
- (2) "Composting" - a controlled process of degrading organic matter by microorganisms.
- (3) "Emission" - a discharge of pollutants into the air.

- (4) “Glare” - the effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and/or visibility.
- (5) “Humus” - decomposed organic material.
- (6) “Nuisance” – generally, an act or omission which obstructs, interferes with and/or causes inconvenience and/or damage to the public in the exercise of common rights and/or enjoyment and use of property. This term applies to any public nuisance, including but not limited to interferences with the interests of the community and/or the comfort and convenience of the general public, including interference with the public health, peace, safety and/or general welfare and/or all other acts and/or omissions considered harmful to the promotion of the health, cleanliness, comfort, safety and general well-being of the citizens of Millcreek Township and all acts declared herein to be a nuisance.
- (7) “Nuisance Element” - any environmental pollutant, such as smoke, odors, liquid wastes, solid wastes, radiation, noise, vibration, glare or heat.
- (8) “Solid Waste” - unwanted or discarded material or refuse, including garbage, with insufficient liquid content to be free-flowing.
- (9) “Vehicle” - a device propelled by power other than human power, designed and/or used for the transportation of people or goods over land surfaces and including, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

1.03 Prohibition and Abatement of Nuisances.

1.03.1 Maintenance of Nuisances Prohibited. It shall be unlawful for any person to cause, commit, establish, allow or permit to exist a public nuisance within Millcreek Township.

1.03.2 Removal of Nuisances or Dangerous Structures. The Township, by its duly authorized representatives, may abate and/or remove any nuisance or dangerous structure on public or private grounds after notice to the owner to do so and, upon the owner’s default, collect all costs of such removal, together with such penalty as is hereinafter set forth.

1.04 Uses Specifically Declared to be Nuisances. The following uses of and activities upon public and/or private real property within the Township of Millcreek are hereby declared to be nuisances and are hereby prohibited. This Section shall not be interpreted or construed so as to authorize other activities not specified below which may be determined to constitute a public nuisance, for such other activities are also prohibited:

- 1.04.1 The use of any premises as a trash, garbage or other dump unless specifically authorized;
- 1.04.2 The depositing or dumping of any amount of trash, garbage, solid waste, recyclable materials, leaf waste or other unauthorized material upon the premises of another or upon public property;
- 1.04.3 The burning or setting fire to trash, rubbish, refuse, garbage, solid waste, recyclable materials, leaf waste, motor vehicles, machinery or other material brought upon and accumulated or stored on any premises from any other location(s);

- 1.04.4 The storing of gasoline, kerosene or other petroleum products in excess of 5,000 gallons, except by gasoline service stations or dealers where all gasoline, kerosene or other petroleum products is stored in appropriate tanks;
- 1.04.5 Any use of or activity upon property that, by reason of flame, glare, smoke, odors, emission, fumes, noise or dust, unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health, safety and/or welfare of the occupants of a neighboring property, or endangers the health, safety and/or welfare of Township residents and/or the users of the Township's public streets, property or facilities;
- 1.04.6 The excessive or unreasonable accumulation of scrap, junk, trash, garbage, solid waste, recyclable materials, leaf waste, compost, humus or other material upon a premises causing odors, fumes or unsightly appearance to neighboring property owners;
- 1.04.7 The deterioration of any structure or property to such a state where it becomes unsafe and/or is unusable for its intended purpose, and/or constitutes a fire hazard endangering surrounding structures, property or persons and/or provides shelter for rats or other wild animals or vermin, and/or creates a hazard to the health, welfare and/or safety of children or adults who reside, play or work thereabouts;
- 1.04.8 Any composting activity which, by virtue of size, location, lack of proper controls, content or other reason, unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health, safety and/or welfare of the occupants of a neighboring property, or endangers the health, safety and/or welfare of Township residents and/or the users of the Township's public streets, property or facilities;
- 1.04.9 The leaving or placement by any person of a vehicle at any place within the Township for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned;
- 1.04.10 The leaving or placement of any nonoperating, wrecked, dismantled and/or junked vehicle on any street, highway or public right-of-way within Millcreek Township;
- 1.04.11 The disposition or permitting or allowing of any refuse or litter to be strewn about the premises of any property;
- 1.04.12 The deposit or placement of litter, refuse or other materials upon public property and/or the property of another; and
- 1.04.13 Any other use or activity prohibited under this Ordinance.

1.05 Abatement of Nuisances.

- 1.05.1 Impoundment of Vehicles. The Chief of Police or any member of the Township Police Department or other law enforcement agency having appropriate jurisdiction is authorized to remove or have removed any vehicle left at any place within the Township which reasonably appears to be in violation of this article or lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the Vehicle Code, 75 Pa. C.S.A. § 3352, as the same in the future may be amended.

1.05.2 The Board of Supervisors through adoption of this Ordinance does not in any way waive any of its civil and/or equitable rights to abate any nuisance which may exist within the Township of Millcreek.

1.06 Enforcement.

1.06.1 This Ordinance shall be enforced as provided by the Ordinance Enforcement Ordinance.

1.06.2 Generally, those regulations which must be enforced under Section 1601(c.1)(2) of the Second Class Township Code as summary criminal offenses, these including Sections 1.04.2, 1.04.4, 1.04.7, 1.04.9, 1.04.10 and 1.04.12, shall be so enforced as provided in the Ordinance Enforcement Ordinance.

1.06.3 All other regulations of this Ordinance shall be enforced as civil matters in accordance with the procedures set forth in the Ordinance Enforcement Ordinance.

1.06.4 Nothing in this Section shall be construed to prohibit or limit the Township of Millcreek from taking action to abate nuisances prior to or independent of proceedings for enforcement in cases of violation of this Ordinance.

1.07 Violations; Penalties for Violation.

1.07.1 It shall be unlawful and a violation of this Ordinance for any person to commit, establish, allow and/or permit the occurrence of a public nuisance, this including violation those acts and omissions prohibited by this Ordinance.

1.07.2 Each violation and each day a violation continues shall constitute a separate offense.

1.07.3 Where a violation involves acts or omissions on a property owned by one person and occupied by another, the Township shall have authority to cited either or both the owner and occupant and to determine whether one or both parties is or are responsible for the violation.

1.07.4 Upon a determination of violation of this Ordinance by the Magisterial District Judge having jurisdiction, a fine for each violation shall be imposed upon the person or persons found to have violated this Ordinance, as follows:

(1) For violations of Sections 1.04.2, 1.04.6, 1.04.8, 1.04.9, 1.04.10 and/or 1.04.11, a fine not less than \$250.00 and not more than \$500.00 for each violation, plus costs and attorney's fees incurred by the Township.

(2) For violations of Section 1.04.7, a fine of not less than \$600.00 and not more than \$1,000.00 for each violation, plus costs and attorney's fees incurred by the Township.

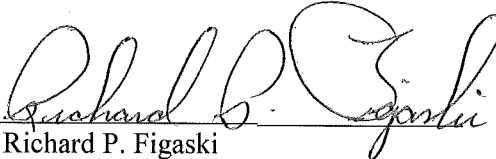
(3) For all other violations, a fine of not less than \$400.00 and not more than \$600.00 for each violation, plus costs and attorney's fees incurred by the Township.

1.08 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstances is for any reason held to be invalid or unconstitutional by any court, such holdings shall not be construed to affect the validity of any of the remaining provisions. It is hereby declared the legislative intent that this Ordinance would have been adopted had such invalid or unconstitutional provision of its application not been included herein.


1.09 Repealor. All Ordinances or parts of any Ordinance inconsistent herewith are hereby repealed. Ordinance No. 95-9, as amended, is hereby repealed upon the effective date of this Ordinance.

**BE IT ENACTED**, this 12<sup>th</sup> day of May, 2015.

**MILLCREEK TOWNSHIP SUPERVISORS**

  
Richard P. Figaski

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John H. Groh

  
Brian P. McGrath