

**Independence Township,
Washington County**

ORDINANCE NO. 14-01 A

**AN ORDINANCE OF THE TOWNSHIP OF INDEPENDENCE,
WASHINGTON COUNTY, PENNSYLVANIA, ESTABLISHING
REQUIREMENTS AND REGULATIONS FOR PROPERTY
MAINTENANCE AND PROVIDING REMEDIES AND/OR PENALTIES
AS ESTABLISHED IN THE NEIGHBORHOOD BLIGHT
RECLAMATION AND REVITALIZATION ACT (No. 90 of 2010) FOR
VIOLATIONS OF SAID REGULATIONS WITHIN INDEPENDENCE
TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA.**

WHEREAS, the Municipalities Planning Code, 53 P.S. §10101 *et seq.* (the “MPC”), authorizes the Township of Independence (the “Township”) to regulate various conduct in the Township; and

WHEREAS, from time to time, the Board has enacted Ordinances to regulate various activities that could be deemed to be nuisances in the Township; and

WHEREAS, the Board desires to enact an Ordinance to supplement the previous Ordinances and to provide requirements and regulations for property maintenance; and

WHEREAS, the Pennsylvania State Legislature has enacted an Act to help municipalities identify and remediate property maintenance issues. See the Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010).

WHEREAS, the Board also desires to establish remedies and/or penalties for violations of the regulations set by this Ordinance.

NOW THEREFORE, the Board hereby ordains and enacts as follows, incorporating the above recitals by reference:

SECTION 1. TITLE.

This ordinance shall be known as the Independence Township Property Maintenance Ordinance.

SECTION 2. PURPOSE AND INTENT.

Over the years, the Township has enacted various Ordinances to regulate actions and conduct within the Township. The purpose of this Ordinance is to better establish conditions for basic property maintenance within the Township, to alleviate high grass, weeds and other conditions on property that create a public nuisance or otherwise adversely affect the public health, safety and well being of the general public.

SECTION 3. DEFINITIONS.

THE ACT

The Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010).

BOARD

A zoning hearing board or other body granted jurisdiction to render decisions in accordance with the Pennsylvania Municipalities Planning Code, the State Township Code, the Code of the Township of Independence or a board authorized to act in a similar manner by law.

BUILDING

A residential, commercial or industrial building or structure and the land appurtenant to it.

MORTGAGE LENDER

A business association defined as a banking institution or mortgage lender under 7 Pa.C.S. Ch 61 (relating to a mortgage loan industry licensing and consumer protection that is in possession of or holds title to real property pursuant to, in enforcement of or to protect rights arising under a mortgage, mortgage note, deed of trust or other transaction that created a security interest in the real property.

MUNICIPAL PERMIT(S)

Privileges related to real property granted by a municipality, including, but not limited to, building permits, parking permits, occupancy permits, and special exceptions or variances from zoning ordinances. The term includes approvals pursuant to land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

MUNICIPAL SERVICE(S)

Services provided at a cost by the Township or other municipal entity, including water service, sanitary sewer service, refuse collection and parking allotments/facilities, which benefit individual properties and also serve to benefit the overall welfare, safety and health of all residents of the Township.

OWNER

A holder of title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record.

PUBLIC NUISANCE

Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate Township official a public nuisance in accordance with the Code of the Township of Independence, as amended from time to time. This Ordinance shall act to supplement other Township Ordinances

dealing with activities that can also be considered as hazards and public nuisances, including:

- Nuisances - Ord. No. 98-04
- Junked or Abandoned Vehicles – Ord. No. 06-03
- Animals – Ord. No. 98-2 as amended by No.
- Curfew – Ord. No. 74-7 and as amended by No. 92-3
- Open Burning – Ord. No. 98-5

SERIOUS VIOLATION

A violation of a state law or Township code or other applicable code that poses an imminent threat to the health and safety of the dwelling occupant, occupants in surrounding structures or passersby. Property found to be a public nuisance is also considered to be a serious violation.

STATE LAW

A statute of the Commonwealth of Pennsylvania or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

SUBSTANTIAL STEP

An affirmative action as determined by a Township official or officer of the court on the part of the property owner or managing agent to remedy a serious violation of state law or Township code including, but not limited to, physical improvements or repairs to the property.

TAX DELINQUENT PROPERTY

Tax delinquent real property as defined under the Real Estate Tax Sale Law (P.L. 1368, No. 542), the Municipal Claim and Tax Lien Law (P.L. 207, No. 153) or the laws governing the Second Class City Treasurers' Sale and Collection Act located in any municipality in this commonwealth.

WASTE

Material that is not wanted, discarded; the unusable remains or byproducts of something. synonyms: garbage, rubbish, trash, refuse, litter, debris,

SECTION 4. PUBLIC NUISANCES:

Failure to maintain exterior property areas in the following manner shall be declared public nuisance and in said Township and punishable as such:

A. EXTERIOR PROPERTY AREA(S):

Section A.1 – Sanitation: All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The owner and/or occupant shall keep that part of

the exterior property which the occupant occupies or controls in a clean and sanitary condition.

Section A.2 – Grading and drainage: All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Water retention areas and reservoirs approved by the Code Enforcement Officer may be exempt from this requirement.

Section A.3 – Sidewalks and driveways: all sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

Section A.4 – Weeds: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 6 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided; however, this term shall not include cultivated flowers and gardens.

Section A.5 – Rat, rodent and/or wild animal harborage: All structures and exterior property shall be kept free from rat, rodent and other wild animal infestation. Where rats, raccoons and other pests are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, property precautions shall be taken to prevent re-infestation.

Sections A.6 – Exhaust vents: Pipes, ducts, ductwork, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate waste directly upon abutting or adjacent public or private property or that of another tenant.

Section A.7 – Accessory structures: All accessory structures, including detached garages, fences and walls, shall be maintained structural sound and in good repair.

Section A.8 – Motor vehicles: Except as provided for in the Junked and Abandoned Vehicle, not more than one currently unregistered or uninspected motor vehicle shall be parked, kept or stored on the exterior of any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. However, a vehicle of any type is permitted to undergo repairs, not otherwise prohibited by any other ordinance, provided that such repair work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

B. EXTERIOR STRUCTURE(S):

Section B.1 – General: The exterior of a structure shall be maintained in good repair, structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety or welfare. In addition to these requirements, all structures must be maintained so as to comply with the Uniform Construction Code and all other building codes adopted by the Township.

Section B.2 – Exterior painting: All wood and metal surfaces including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking and chipped or peeling paint shall be eliminated and surfaces repainted.

Section B.3 – Street numbers: Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way.

Section B.4 – Structural members: All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed and required dead and live loads.

Section B.5 – Foundation walls: All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rats, pests, vermin and/or insects.

Section B.6 – Exterior walls: All exterior walls shall be free from holes, breaks, loose or rotting materials, and maintained weatherproof and properly surface coated, where required to prevent deterioration.

Section B.7 – Roofs and drainage: The roof and flashing on any structure shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be charged in a manner that creates a public nuisance.

Section B.8 – Decorative features: All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repairs with proper anchorage and in safe condition.

Section B.9 – Overhead extensions: All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhand extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

Section B.10 – Stairways, decks, porches and balconies: Every exterior stairway, deck porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

Sections B.11 – Chimneys and towers: All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

Section B.12 – Handrails and guards: Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Section B.13 – Window and door frames: Every window, door, window frame and door frames shall be kept in sound condition, good repair and weather tight. Windows/doorways cannot be sealed with masonry, plywood or other materials that are not windows or doors.

Section B.14 – Glazing: All glazing materials shall be maintained free from cracks and holes.

Section B.15 – Openable windows: Every window other than a fixed window shall be easily opened and capable of being held in position by window hardware.

Section B.16 – Doors: All exterior doors shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall rightly secure the door.

Section B.17 – Basement hatchways: Every basement hatchway shall be maintained to prevent the entrance of rats, rain and surface drainage water.

Section B.18 – Guards for basement windows: Every basement window that is openable shall be supplied with rat-proof shields, storm windows or other approved protection against the entry of rats.

C. RUBBISH/TRASH/WASTE/GARBAGE:

Section C.1 – Accumulation of rubbish or garbage: All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Section C.2 – Disposal of rubbish: Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

Section C.3 – Rubbish storage facilities: The owner of every occupied premises shall supply covered containers for rubbish and the owner of the premises shall be responsible for the removal of rubbish.

Section C.4 – Disposal of garbage: Every occupant of a structure shall dispose of garbage in a sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

Sections C.5 – Containers: The operator of every establishment that produces garbage shall provide, and at all times cause to be utilized, approved leak-proof containers, provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

D. INFESTATION/EXTERMINATION:

Section D.1 – Infestation: All structures shall be kept free from insect and rat, rodents, raccoons and other wild animal infestation. All structures in which insects and rats are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

Section D.2 – Owner: The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

Section D.3 – Single occupant: The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

Section D.4 – Multiple occupancy: The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or nonresidential structure

shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupants shall be responsible for extermination.

Section 7.5 – Occupant: The occupant of any structure shall be responsible for the continued rat-free condition of the structure, and if the occupant fails to maintain the rat-free condition, the cost of extermination shall be responsibility of the occupant. However, where rat infestations are caused by defects in the structure, the owner shall be responsible for extermination.

SECTION 5. VIOLATIONS, ACTIONS AND PENALTIES.

In addition to any other remedy available at law, including those remedies available under the Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010), remedies available in equity or other remedies as provided for in the Code of the Township of Independence, the Township may institute the following actions against the owner of any property that is in serious violation of a Township code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

A. ACTIONS.

A.1 An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within the six months following receipt of an order by the Township to correct the violation, unless the order is subject to a pending appeal before an administrative agency or court. Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a Township code, the Township may recover, in a single action under this section, an amount equal to the penalties imposed against the owner and any costs of remediation lawfully incurred by, or on behalf of, the Township to remedy any Code violation.

A.2 A proceeding in equity.

A.3 A lien may be placed against the assets of an owner of real property that is in serious violation of a Township code or is regarded as a public nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property for an adjudication under either an in personam action or a proceeding in equity as set forth above. In the case of an owner that is an association or trust, this does not authorize a lien to be placed upon the individual assets of the general partner, trustee, limited partner, shareholder, member or beneficiary of the association or trust except as otherwise allowed by law.

B. ASSET ATTACHMENT.

B.1 - General rule. A lien may be placed against the assets of an owner of unremediated blighted real property that is in serious violation of a code or is regarded as a public nuisance after a judgment, decree or order is entered by a

court of competent jurisdiction against the owner of the property for an adjudication under section 6111 of the Act.

B.2 - Construction. Nothing in this section shall be construed to authorize, in the case of an owner that is a corporation, an association or trust, a lien on the individual assets of the shareholders of the corporation, general partner or trustee, except as otherwise allowed by law, limited partner, shareholder, member or beneficiary of the association or trust.

C. OUT OF STATE OWNERS.

Duty of out-of-State owners of real estate property in this Commonwealth. A person who lives or has a principal place of residence outside this Commonwealth, who owns real estate property in this Commonwealth against which code violations have been cited under 18 Pa.C.S. § 7510 (relating to municipal housing code avoidance) and the person is charged under 18 Pa.C.S. (relating to crimes and offenses) and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by the Criminal Code and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed by law.

D. ASSOCIATIONS AND TRUST OWNERS.

Where, after reasonable efforts, service of process for a notice or citation for any code violation for any real property owned by a corporation or business association, association or trust, cannot be accomplished by handing a copy of the notice or citation to an executive officer, partner or trustee of the corporation or business association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or US first class mail, accompanied by a delivery confirmation:

(1) To the registered office of the corporation or business association or trust.

(2) Where a corporation or business association, the association or trust, does not have a registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice to the property and by handing a copy of the notice or citation to any adult in possession of the property and/or the person in charge of the property at that time.

E. ADDITIONAL PENALTIES.

For any violation of any provision of this ordinance by permitting, creating, maintaining, or being guilty of any of the nuisances are hereby guilty of a summary offense and upon conviction thereof be liable to pay a fine not less than \$50.00 and not more than \$1,000.00, unless otherwise provided for by State or local law.

SECTION 6. PERMIT DENIALS

A. DENIAL

- (1) A municipality or a board under subsection (c) may deny issuing to an applicant a municipal permit if the applicant owns real property in any municipality for which there exists on the real property:
 - (i) a final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of the owner; or
 - (ii) a serious violation of State law or a code and the owner has taken no substantial steps to correct the violation within six months following notification of the violation and for which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas. However, no denial shall be permitted on the basis of a property for which the judgment, order or decree is subject to a stay or supersedeas by an order of a court of competent jurisdiction or automatically allowed by statute or rule of court until the stay or supersedeas is lifted by the court or a higher court or the stay or supersedeas expires as otherwise provided by law. Where a stay or supersedeas is in effect, the property owner shall so advise the municipality seeking to deny a municipal permit.
- (2) A municipality or board shall not deny a municipal permit to an applicant if the municipal permit is necessary to correct a violation of State law or a code.
- (3) The municipal permit denial shall not apply to an applicant's delinquency on taxes, water, sewer or refuse collection charges that are under appeal or otherwise contested through a court or administrative process.
- (4) In issuing a denial of a permit based on an applicant's delinquency in real property taxes or municipal charges or for failure to abate a serious violation of State law or a code on real property that the applicant owns in this Commonwealth, the municipality or board shall indicate the street address, municipal corporation and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate State agency, municipality or school district, in a form specified by such entity as provided in this section.

B. PROOF OF COMPLIANCE

- (1) All municipal permits denied in accordance with this subsection may be withheld until an applicant obtains a letter from the appropriate State agency, municipality or school district indicating the following:
 - (i) the property in question has no final and unappealable tax, water, sewer or refuse delinquencies;
 - (ii) the property in question is now in State law and code compliance; or
 - (iii) the owner of the property has presented and the appropriate State agency or municipality has accepted a plan to begin remediation of a serious violation of State law or a code. Acceptance of the plan may be contingent on:

(A) Beginning the remediation plan within no fewer than 30 days following acceptance of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

(B) Completing the remediation plan within no fewer than 90 days following commencement of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

(2) In the event that the appropriate State agency, municipality or school district fails to issue a letter indicating tax, water, sewer, refuse, State law or code compliance or noncompliance, as the case may be, within 45 days of the request, the property in question shall be deemed to be in compliance for the purpose of this section. The appropriate State agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made.

(3) Letters required under this section shall be verified by the appropriate municipal officials before issuing to the applicant a municipal permit.

(4) (i) Municipal permits may be denied by a board in accordance with the requirements of this section to the extent that approval of the municipal permit is within the jurisdiction of the board. For purposes of this section, "board" shall mean a zoning hearing board or other body granted jurisdiction to render decisions in accordance with the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or a similar board in municipalities not subject to that act.

(ii) In any proceeding before a board other than the governing body of the municipality, the municipality may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.

(iii) For purposes of this subsection, a municipal permit may only be denied to an applicant other than an owner if:

(A) the applicant is acting under the direction or with the permission of an owner; and

(B) the owner owns real property satisfying the conditions of subsection (a). Applicability of other law.--A denial of a permit shall be subject to the provisions of 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action) or the Pennsylvania Municipalities Planning Code, for denials subject to the act.

SECTION 7: AGRICULTURAL ZONE.

Nothing in this ordinance is intended nor shall conflict with any provisions of the townships Agricultural District.

SECTION 8: REPEALER AND OTHER PUBLIC NUISANCES.

This Ordinance is a supplement to existing ordinances regulating behavior that may be classified as a public nuisance. This ordinance does not directly repeal any prior enacted ordinances; however it repeals sections of enacted ordinances that directly conflict with sections of this

ordinance. Specifically, Ord. No. 07-02 and Ord. 99-2 dealing with Damaged Buildings and other property maintenance issues.

SECTION 9. SEVERABILITY.

The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

ENACTED this 17th day of September, 2014, by the Board of Supervisors of the Township of Independence, Washington County, Pennsylvania; and shall become effective five (5) days after enactment.

ATTEST:

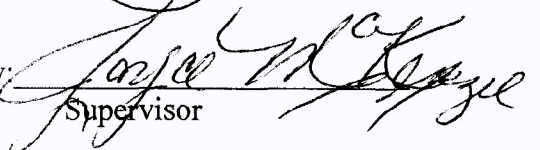
TOWNSHIP OF INDEPENDENCE
WASHINGTON COUNTY, PA



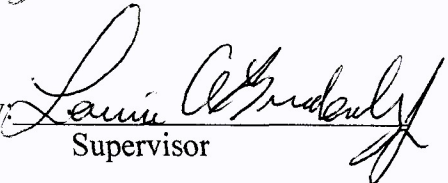
Secretary

By: 

Chairman

By: 

Supervisor

By: 

Supervisor