

**Independence Township,
Washington County**

ORDINANCE NO. 14-05

**AN ORDINANCE OF THE TOWNSHIP OF INDEPENDENCE,
WASHINGTON COUNTY, PENNSYLVANIA, AMENDING SECTIONS
220, 268 and 389 OF THE TOWNSHIP CODE AND FURTHER
ESTABLISHING ADDITIONAL REQUIREMENTS AND REGULATIONS
FOR PROPERTY MAINTENANCE; AND PROVIDING REMEDIES
AND/OR PENALTIES FOR VIOLATIONS OF SAID REGULATIONS TO
IMPROVE THE QUALITY OF LIFE 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 to further improve the quality of life of the Township's residents; and

WHEREAS, the Board also desires to establish remedies and/or penalties for violations of the regulations set by this Ordinance and for previous established regulations found in Section 220, 268 and 389 of the Township Code.

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 Quality of Life Improvement Ordinance.

SECTION 2. PURPOSE.

The Township continues to enact rules and regulations concerning the maintenance of properties in the Township. The purpose of this Ordinance is to promote the health, safety and general welfare of the Township by helping to create a clean environment that will improve the quality of life for Township residents.

SECTION 3. DEFINITIONS.

The following words, terms, and phrases, when used in this Part, shall be defined as follows, unless context clearly indicates otherwise:

AUTHORIZED LITTER RECEPTACLE - is a litter collection receptacle which is placed on the public right-of-way or on public property by the Township for use by the public to deposit small quantities of hand-held trash, but not household or commercial waste.

DEBRIS - any material upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked, or piled in such a manner so as not to create a nuisance or become a harboring place or food supply for insects and rodents.

DUMPING - includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, etc.) small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products, and other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized by law.

GARBAGE - the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HAZARDOUS WASTE - any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

- (1) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness.
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE (HHW) - waste which would be chemically or physically classified as a hazardous waste, but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: toxic, flammable, reactive, or corrosive. HHW consists of numerous products that are common to the average household such as: pesticides and herbicides, cleaners, automotive products, paints, and acids.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

JUNKED VEHICLE – see Chapter 389 of the Township Code. See also "motor vehicle nuisance."

LITTER - includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

LOCAL RESPONSIBLE AGENT - any person residing or working within the County of Washington designated to accept service on behalf of a legal owner or operator of a rental dwelling unit.

MOBILE VENDOR - a vendor or seller of food and/or goods from a vehicle or other conveyance upon the public streets or alleys of the Township that does not typically remain stationary for more than approximately 10 minutes each hour.

MOTOR VEHICLE NUISANCE - a motor vehicle with one or more of the following defects:

- (1) Broken windshields, mirrors, or other glass, with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.
- (3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
- (4) Protruding sharp objects from the chassis.
- (5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.
- (6) One or more open tires or tubes which could permit animal harborage.
- (7) 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.
- (8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.
- (9) Disassembled body or chassis parts stored in on or about the vehicle.
- (10) Vehicles that do not display a current valid license and registration.
- (11) Such other defects which the Fire Department determines to be a danger to the general public or property.
- (12) Motor vehicles parked, drifted, or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

MUNICIPAL WASTE - any garbage, refuse, industrial, lunchroom, or office waste, and other material including solid, liquid, semisolid, or contained gaseous material resulting from operation or residential, municipal, commercial, or institutional establishments or from community activities, and which is not classified as residual waste or hazardous waste as defined herein. The term does not include source separated recyclable materials or organic waste.

NOTICE OF VIOLATION - a written document issued to a person in violation of a Township ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

NUISANCE - any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, or welfare of citizens of the Township, or causes a blighting effect in Township neighborhoods. See also: Chapter 268 of the Township Code. See also "public nuisance."

PERSON - every natural person, firm, corporation, partnership, association, or institution.

PLANTER STRIP - the non-concrete space in the sidewalk area filled with dirt and/or grass.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC OFFICER - any police officer, authorized inspector, or public official designated by the Township to enforce the Township ordinances.

PUBLIC NUISANCE - any conditions or premises which are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECYCLABLE MATERIAL - material which would otherwise become municipal waste, which can be collected, separated, or processed, and returned to the economic main-stream in the form of raw materials or products. These materials may include, but not be limited to, aluminum cans, ferrous and bi-metal cans, glass containers, plastic bottles and containers, mixed paper, white goods, major appliances, televisions, tires, and large auto parts.

RESIDUAL WASTE - any discarded material or other waste including solid, semisolid, or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations, excluding municipal water and sewer operations.

RUBBISH - combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SHADE TREE - unless otherwise specified, includes all trees, shrubs, and woody vegetation in the public right-of-way.

SIDEWALK AREA - the public right-of-way between the property line and the curb line or the established edge of the roadway.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials.

STORAGE - the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal as such waste, and it shall be presumed that the containment of any municipal waste in excess of three (3) months constitutes disposal.

TREE WELL - the non-concrete area surrounding a shade tree planted in a sidewalk area.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET - a form issued by a police officer or public officer to a person who violates a provision of this Part. The violation ticket is an offer by the Township of Independence extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator.

WEEDS – see Chapter 220 of the Township Code.

YARD - an open space on the same lot with a structure.

SECTION 4. QUALITY OF LIFE VIOLATIONS

1. Operating a Food Cart Illegally. It shall be unlawful to operate any food cart/stand/area without the proper permits and/or inspections. It shall also be unlawful to operate any food cart/stand/area while any portion of the cart is inoperable.
2. Operating or Vending Without the Proper Permit/License. It shall be unlawful for any person, business, partnership, or entity to operate including, but not limited to, any business, vending cart, store, or establishment without the proper permits.
3. Storing of Hazardous Material. It shall be unlawful for any person, business or entity to store combustible, flammable, explosive, or other hazardous materials including, but not limited to,

paints, volatile oils and cleaning fluids, or combustible rubbish including, but not limited to, wastepaper, boxes, or rags unless the storage of said materials is stored in compliance with the applicable Building Codes.

4. Storing or Serving of Potentially Hazardous Food. No individual or entity operating a business shall store or serve potentially hazardous food. Including, but not limited to, out of date food, food being stored above or below the appropriate temperature, food being stored directly on a flooring surface, infestation problems at the location, or serving food that had previously been open are considered a violation of this Part.

5. Violating the Terms of Any Vending License. It shall be unlawful to violate any term, part, portion or in total, any vending license. Any person, business, partnership, or entity violating their vending license shall be in violation of this Part.

6. Temporary Dumpster Permit Required. Each temporary dumpster, whether placed on private property or in a public right of way, shall display a valid permit issued by the Township of Independence.

7. Township Permits to be Displayed and Followed. All applicable Township Permits shall be displayed in a fashion that makes them visible from the roadway. In cases of demolition, the permit shall be displayed in the back window of a construction vehicle parked on site, and visible from the roadway. Should a permittee be unable to comply with this requirement, they shall have to notify the designated Township official, and seek immediate authorization /approval. Once the Township provides notice to a property owner that a permit is necessary, any additional work to the property shall allow the Township to fine the property owner and/or the person(s) performing the work for violation of this section.

8. Accumulation of Rubbish or Garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of waste, trash, rubbish, or garbage.

9. Animal Maintenance and Waste/Feces Clean-Up. People owning, harboring, or keeping an animal within the Township of Independence shall not permit any waste matter/feces from the animal to collect and remain on the property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. All waste from animals must be cleaned up on a daily basis.

10. Disposal of Rubbish or Garbage/Dumping. Improper disposal of rubbish or garbage, or dumping or disposing of rubbish or garbage on vacant, unoccupied, or other property.

11. Littering or Scattering Rubbish. No person shall throw, dump, place, sweep, or dispose of any waste, trash, garbage, or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or on any public property.

12. Outside Placement of Indoor Appliances/Furniture. It is prohibited to store or place any/all appliances or furniture including, but not limited to ranges, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except for the temporary purpose to perform maintenance on said property. If maintenance is being performed, or if the items are actively being sold in a yard sale, the items shall not be left unattended.

13. Ownership Presumption of Waste, Trash, and/or Recyclables for Illegal Dumping and Illegal Hauling. It shall be the responsibility of every owner and/or occupant to dispose of their waste, trash, or recyclables in a proper manner. Any business or person who is unable to show proof that they have legally disposed of any waste, trash, or recyclables will be in violation of this Part. Should any person or business use an unlicensed hauler to dispose of their waste, trash, or recyclables, said person or business shall be in violation of this Part. Upon request of the Public Officer, any owner or occupant must show proof of their appropriate trash and/or recyclable hauler. Any parts found within a municipal waste container, recycling container, garbage bag, or loose trash/waste displaying the name and/or address of a person and/or persons, that trash or waste shall be presumed to be the property of such person and/or persons. It shall be unlawful for any person, business, partnership, or entity to remove or haul waste, trash, or recyclables without the proper approval or license. Any waste, trash, or recyclables found not to be disposed of in accordance with this Part will be a violation of this Part.

14. Placement or Littering by Private Advertising Matter. No person shall throw, place, sweep, or dispose of litter or private advertising matter upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or any public property. No person, group, organization, or entity will hang, place, or advertise on any public property in any manner. No person, group, organization, or entity will hang, place, or advertise on any property that they do not have any ownership rights to without the written approval of said owner.

15. Storage Containers for Waste or Trash. The owner of every premises shall supply approved containers for waste /trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and odor free at all times. All containers must be stored in the rear of every property so said containers are not visible from the public right-of-way. Waste/trash containers may only be placed in front of any property when darkness occurs the night before the day of the scheduled waste/trash pick -up day. Once the licensed hauler removes the waste/trash from any property, all containers must be returned to the rear of any property before daybreak on the day following pick-up. (Example: Jim Smith's trash collection day is Wednesday. Jim Smith may place his trash containers out front of his property on Tuesday night, once night falls. Jim Smith must place his trash containers in the rear of his yard before daybreak, on Thursday morning.)

16. Storing of Recyclables. It shall be the responsibility of the owner of all residential, commercial, and industrial property to ensure storage, collection, and disposal of all recyclables from their property in such a manner not to create a public nuisance. Storage of recyclables is only allowed in approved containers, which must be kept clean and sanitary at all times.

17. Swimming Pools. Swimming pools shall be maintained in good repair at all times. They shall also be kept clean, safe, covered, and sanitary as well.

SECTION 5. AMENDMENT OF SECTION §§ 220-4; 389-5 OF THE TOWNSHIP CODE.

§§ 220-4; 389-5 and 268-1(F) of the Independence Township Code, shall be amended to further include the following remedies for violations:

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

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. ENFORCEMENT AND VIOLATIONS

1. The provisions of this Part shall be enforced by police officers, or any other public officer authorized to enforce ordinances.
2. Any violation of the provisions of this Part may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to the violator.
3. 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 Neighborhood Blight Reclamation and Revitalization Act (Act 90 of 2010).

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 7: CAMPAIGN SIGN(S) EXEMPTION.

Campaign signs advertising candidates for political office shall be considered temporary and are allowed without permit provided the following:

- No more than one (1) sign per candidate per lots;
- Placement is no more than thirty (30) days prior to an upcoming public election and removal occurs no later than seven (7) days after said election; and
- No traffic sight lines and public right of ways are obstructed
- Permission is granted by the property owner

SECTION 8: AGRICULTURAL ZONE.

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

SECTION 9: 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(s). 1-14, 07-02 and 99-2 dealing with damaged buildings, nuisances and other property maintenance issues.

SECTION 10. 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.

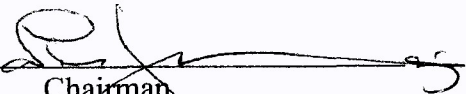
ENACTED this 17th day of December, 2014, by the Board of Supervisors of the Township of Independence, Washington County, Pennsylvania; and shall become effective five (5) days after enactment.

ATTEST:

TOWNSHIP OF INDEPENDENCE
WASHINGTON COUNTY, PA



Secretary

By: 

Chairman

By: 

Supervisor

By: 

Supervisor