

ORDINANCE 85-2

AN ORDINANCE FOR THE TOWNSHIP OF HOWE, FOREST COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE HEALTH, WELFARE AND SAFETY OF THE PEOPLE OF HOWE TOWNSHIP BY DEFINING NUISANCES; PROHIBITING DEFINED NUISANCES; SETTING PROCEDURES; AND IMPOSING PENALTIES, FINES OR IMPRISONMENT FOR VIOLATIONS.

NOW, THEREFORE, the Supervisors of the Township of Howe, Forest County, Pennsylvania, do hereby enact and ordain:

PURPOSE

WHEREAS, certain businesses, land uses and conditions create such an adverse impact on the citizens of the Township, and are so detrimental to the health, safety, and welfare of the Township that they should be prohibited.

Section 1. Definitions and Interpretation. The following words, as used in this ordinance, shall have the meanings hereby respectively ascribed.

(A) Nuisance: Any use of property within the Township of Howe or any condition upon property within the said Township that, other than infrequently, shall cause or result in: (1) annoyance or discomfort to persons beyond the boundaries of such property; (2) interference with the health and/or safety of persons beyond the boundaries of such property or of persons who might reasonably be expected to enter upon or be in such property; and/or (3) disturbance to or interference with the peaceful use of the property of others within the Township, in case taking into consideration the location of the use or conditions and the nature and condition of the surrounding neighborhood. Specifically, the word "nuisance" shall include but shall not be limited to the following:

(i) Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:

- (a) open wells or cisterns
- (b) open excavations
- (c) Unfinished buildings, foundations or other structures
- (d) Buildings or structures damaged or partially destroyed or in a state of disrepair or danger
- (e) Dangerous placement of materials or equipment
- (f) Junk automobiles, buses, motor homes, trailers, etc.
- (g) lakes, ponds, or swimming pools not properly safeguarded

(ii) The planting or placing of trees, shrubs or other obstructions which would prevent persons driving vehicles on public streets or roadways from obtaining a clear view of traffic.

(B) Person: Any natural person, partnership, association, firm or corporation.

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. Unlawful to Create or Maintain Nuisances. It shall be unlawful for any person to create, continue, cause, maintain or permit to exist any nuisance at any place within the Township of Howe.

Section 3. Removal or Abatement of Nuisances. Any person who shall create, continue, cause, maintain or permit to exist any nuisance at any place within the Township of Howe, shall, within ten (10) days after notice from the Township to do so, remove or abate such nuisance. If such person shall fail, neglect or refuse to abate such nuisance within such time limit, the Township shall have authority, in person or by its agents and/or employees, to remove or abate such nuisance, and in so doing, shall have authority to enter upon the property of such person in default. Thereupon, the Township shall collect the cost and expense of such abatement or removal from the person who created, continued, caused or maintained such nuisance and/or permitted the same to exist, such person having failed, neglected or refused to remove or abate such nuisance, with an additional amount of twelve per centum, in the manner provided for the collection of municipal claims, or by an action in assumpsit. Provided: such cost and expense may be in addition to any penalty imposed under the fourth section of this ordinance.

Section 4. Penalty for Violation. Any person who shall violate any provision of this ordinance shall, for each and every such violation, upon conviction thereof, be sentenced to pay a fine of not less than five dollars (\$5.00) or more than one hundred dollars (\$100.00) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided: each day's continuation of the maintenance of any nuisance, after the expiration of ten (10) days following the issuance of the notice referred to in the third section of this ordinance, shall constitute a separate violation.

Section 5. Exceptions. This ordinance shall not be construed to be the sole means for abatement of nuisances with the Township of Howe, and nothing shall preclude any person from proceeding individually or with other injured persons, to effect the abatement of a private nuisance. Furthermore, in the exercise of the powers herein conferred, the Township may institute proceedings in equity.

Section 6. Severability of Provisions. The provisions of this ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal, or otherwise 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 that this ordinance would have been adopted had such unconstitutional, illegal or otherwise invalid provision had not been included herein.

This Ordinance shall take effect on the 11 day of December, 1985 and shall remain in force until modified, amended or rescinded by the Supervisors of Howe Township, Forest County, Pennsylvania.

ADOPTED BY the Supervisors of Howe Township, Forest County, Pennsylvania this 11 day of December 1985.

Edward Houston
Supervisor

W. J. Frost
Supervisor

ATTEST:

Jean Leuenberger
Secretary

Supervisor

**HOWE TOWNSHIP
FOREST COUNTY, PENNSYLVANIA**

ORDINANCE NO. 13-1

NUISANCE AMENDMENT ORDINANCE

AND NOW, this 12th day of June, 2013, the Supervisors of Howe Township, Forest County, Pennsylvania, do hereby ENACT AND ORDAIN as follows:

WHEREAS, by Ordinance adopted December 11, 1985, entitled Howe Township Nuisance Ordinance 85-2, the Supervisors of Howe Township enacted and ordained that certain businesses, land uses and conditions create an adverse impact on the citizens of the Township, and are so detrimental to the health, safety and welfare of the Township that they should be prohibited.

NOW, THEREFORE, the Supervisors do ENACT AND ORDAIN and it is ENACTED AND ORDAINED for Howe Township, Forest County, Pennsylvania, as follows:

Section (3) of the Howe Township Nuisance Ordinance 85-2 is hereby modified by adding to the end the following:

(vi) Inspection of Premises; Notice to Comply:

1. After approval, in writing, of a quorum (two) of Supervisors the Code Enforcement Officer is hereby empowered, upon attaining a proper search warrant, to inspect private property on which appliances, motor vehicles, machinery, equipment, and/or various materials are stored or there are buildings which potentially meet the specific definition of nuisance to determine if there is compliance with the provisions of this Ordinance. If noncompliance with the provisions of this Ordinance constitutes a nuisance, or if any condition, structure, or improvement poses a danger to the health, safety, or welfare of the public, he shall issue a written notice to be served by certified mail upon the owner of said premises, or, if the owner's whereabouts or identify be unknown, by posting the notice conspicuously upon the offending premises.
2. Said notice shall specify the condition considered to be a hazard and/or nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth in the notice within ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

This Amendment shall become effective five (5) days after the date of adoption.

IN WITNESS WHEREOF, the Supervisors of Howe Township have caused this Ordinance to be adopted this 12th day of June, 2013.

HOWE TOWNSHIP SUPERVISORS

ATTEST: (seal)

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**HOWE TOWNSHIP
FOREST COUNTY, PENNSYLVANIA**

ORDINANCE NO. 11-1

NUISANCE AMENDMENT ORDINANCE

AND NOW, this 13th day of April, 2011, the Supervisors of Howe Township, Forest County, Pennsylvania, do hereby ENACT AND ORDAIN as follows:

WHEREAS, by Ordinance adopted December 11, 1985, entitled Howe Township Nuisance Ordinance 85-2, the Supervisors of Howe Township enacted and ordained that certain businesses, land uses and conditions create an adverse impact on the citizens of the Township, and are so detrimental to the health, safety and welfare of the Township that they should be prohibited.

NOW, THEREFORE, the Supervisors do ENACT AND ORDAIN and it is ENACTED AND ORDAINED for Howe Township, Forest County, Pennsylvania, as follows:

Section (3) of the Howe Township Nuisance Ordinance 85-2 is hereby modified by adding to the end the following:

(iii) Odor: No malodorous gas or matter that is discernible on any adjoining lot or property shall be permitted except for normal farm operations carried on and normal oil and gas extraction.

(iv) Air pollution: No pollution of air by fly ash, dust, smoke, vapors, or any substance that is harmful to health, animals, vegetation or other property shall be permitted.

(v) Water Pollution: Water pollution in violation of any standards established by the Pennsylvania Department of Environmental Protection shall not be permitted.

This Amendment shall become effective five (5) days after the date of adoption.

IN WITNESS WHEREOF, the Supervisors of Howe Township have caused this Ordinance to be adopted this 13th day of April, 2011.

HOWE TOWNSHIP SUPERVISORS

ATTEST: (seal)
