

**EATON TOWNSHIP  
WYOMING COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2017-01**

AN ORDINANCE OF EATON TOWNSHIP, WYOMING COUNTY, PENNSYLVANIA, PROVIDING FOR THE CONTROL OF DANGEROUS BUILDINGS, STRUCTURES, WELLS AND CISTERNS, AND THE ACCUMULATION OF REFUSE, PROVIDING FOR THE CORRECTION, REPAIR, VACATION OR DEMOLITION OF THE SAME; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Eaton, Wyoming County, Pennsylvania, as follows:

**SECTION 1 - SHORT TITLE**

This Ordinance shall be known and may be cited as *THE EATON TOWNSHIP NUISANCE PROPERTY ORDINANCE*.

**SECTION 2 - PURPOSE; AUTHORITY; STATE PROTECTED AGRICULTURAL OPERATIONS; APPLICATION**

**201. Purpose.**

The purpose of this Ordinance is to prohibit the existence of dangerous buildings and structures, wells and cisterns and the accumulation of refuse; and to abate other public nuisances in order to prevent the blight and deterioration of property, to protect property values within the Township and to abate public health hazards, and otherwise protect the general health, safety and welfare of the citizens of Eaton Township.

**202. Authority.**

This Ordinance is ordained and enacted under the authority granted by Sections 1517, 1529, 1703-A, 1704-A and Section 1601 of the Pennsylvania Second Class Township Code, Act 69 of 1933, P.L. 103, 53 P.S. § 65101, et seq.; the Neighborhood Blight Reclamation and Revitalization Act, 53 Pa.C.S. § 6101, et seq.; and the Municipal Claims and Tax Lien Act of 1923, 53 PS 7101, et seq.

**203. State Protected Agricultural Operations.**

Nothing in this Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right to Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes.

**204. Application.**

This Ordinance shall apply uniformly to all persons, business organizations, nonprofit organizations, and all other legal entities;

and, it shall apply uniformly to all property and all property owners within the Township.

### **SECTION 3 - WORD USAGE AND DEFINITIONS**

#### **301. Word Usage.**

- A. Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to have the same meaning as in common usage and so as to give the ordinance its most reasonable application consistent with its intent.
- B. The word *shall* is always mandatory and not merely directory.
- C. Words used in the present tense include the future and past, words in the plural number include the singular, words in the singular number include the words in the plural, and words either in the feminine, masculine or neuter shall include words of the other two genders.

#### **302. Definitions.**

- A. Agricultural Use: An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes agricultural products processing operations; riding academies, livery or boarding stables and dog or other animal kennels.
- B. Attractive Public Nuisance - A condition of property which may reasonably be construed to be a source of danger to the persons who may reside or otherwise be on the premises, or who may, by reason of something which may be expected to attract them, come to the premises.
- C. Building - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature, including, but not limited to, dwellings, dwelling units, mobile homes, garages, barns, stables, sheds, plants, factories, warehouses and similar structures.

- D. Dangerous Premises - Any building, structure or property which has any or all of the following defects:
1. Any structure which shows damage or deterioration to the supporting member or members, or damage or deterioration to the non-supporting enclosing or outside walls or coverings so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
  2. Any structure which has been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
  3. Any structure which is so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein or the public;
  4. Any building, structure or property which because of its location or due to an accumulation of refuse is unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public;
  5. Any building, structure or property which can be construed as an attractive public nuisance;
  6. Any building, structure or property maintained in violation of the Uniform Construction Code and/or the Property Maintenance Code as adopted by the Township, including, but not limited to, abandoned or unoccupied dwellings or buildings in a state of dilapidation or disrepair.
- J. Dwelling - A structure or portion thereof which is used exclusively for human habitation.
- K. Dwelling Unit - A single habitable living unit including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.
- L. Emergency Case - A violation which poses an imminent threat to the public health, safety or welfare and which requires immediate action to eliminate such imminent threat.

- M. Enforcement Officer - The individual(s), agency or firm appointed by the Eaton Township Board of Supervisors to enforce the provisions of this Ordinance.
- N. Garbage - Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- O. Lot: A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.
- P. Nuisance - Any unreasonable, unwarrantable or unlawful course of conduct or use of private or public property which causes or may cause injury, damage, hurt, inconvenience, interference, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.
- Q. Occupant - The person owning, leasing, renting, occupying or having charge, care, custody or control of any premises in Eaton Township.
- R. Owner - The person who, alone or jointly or severally with others is the owner of record of the premises as filed with the Wyoming County Recorder of Deeds. In the case where an owner is represented by an agent, including but not limited to a manager, executor, executrix, administrator, administratrix, or guardian of the estate of the owner, such person thus representing the actual owner shall be bound to comply with the provisions of this Ordinance and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
- S. Person - An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other legal entity.
- T. Property - A piece, parcel, lot or tract of land.
- U. Refuse -- shall mean all solid, liquid or gaseous wastes except body wastes and shall include garbage, rubbish and other waste material.
- V. Rubbish - Combustible and non combustible waste materials including but not limited to, garbage, junk, residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and similar materials.

- W. Serious Violation - A violation of a State law or a code that poses an imminent threat to the health and safety of a dwelling occupant, an occupant in surrounding structures or a passerby.
- X. Township - The Township of Eaton, Wyoming County, Pennsylvania.
- Y. Vermin Infested - The presence, within or upon a premises, of any insects, rodents or other pests which constitute a public nuisance.
- Z. Waste Material - Any garbage, rubbish, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste. Including solid, liquid, semi-solid or containing gaseous materials resulting from industrial and mining operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the Pennsylvania Department of Environmental Protection as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

#### **SECTION 4 - RESPONSIBILITY; VIOLATION; NUISANCES DECLARED**

##### **401. Responsibility.**

It shall be the responsibility of the property owner of the premises upon which any public nuisance, as described in this Ordinance, is situated and/or occurring, jointly with the owner of any refuse, structure, building, well or cistern or other item which constitutes such public nuisance, to provide for the removal or abatement of any such public nuisance and the remediation of any environmental problems associated with the activity or property condition which constitutes the public nuisance.

##### **402. Violation.**

Any owner of property upon which a public nuisance is located or taking place, and/or any person who or which owns or keeps refuse, structures, buildings, wells or cisterns which constitute a public nuisance, and/or any person who or which owns or is engaged in conduct, which constitutes a public nuisance, shall be deemed to be in violation of this Ordinance, and shall be subject to the penalties and remedies prescribed herein.

#### **403. Nuisances Declared.**

The following are hereby declared to be public nuisances and shall be removed, disposed of, or corrected as herein provided:

A. Unsanitary or Dangerous Material - The accumulation of refuse or other material which is unsanitary, unsafe, unsecured or otherwise dangerous or detrimental to the health, safety, or general welfare of the occupants of the premises or the public;

B. Dangerous Premises - Maintaining or causing to be maintained dangerous premises as defined in Section 3, above, or maintaining or causing to be maintained any building, structure or property in violation of the Uniform Construction Code and/or the Property Maintenance Code as adopted by the Township, including, but not limited to, abandoned or unoccupied dwellings or buildings in a state of dilapidation or disrepair;

C. Wells; Cisterns - Permitting or allowing any well, cistern, or similar structure to be, or remain uncovered.

D. Others - Any other such action, non-action, situation or physical object which by its nature is deemed by the Board of Supervisors to constitute a public nuisance under the terms of this Ordinance.

#### **SECTION 5 - ENFORCEMENT OFFICER**

##### **501. Enforcement Officer.**

The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this Ordinance.

##### **502. Inspections and Permission; Consultation.**

A. Inspections and Permission - The Enforcement Officer, and any other agent so authorized by the Board of Supervisors, may inspect any premises to determine whether any violations of this Ordinance exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner or occupant for the same. If after due diligence, the Enforcement Officer is unable to obtain such permission, the Enforcement Officer shall have the authority to conduct the necessary inspection upon the issuance of a search warrant. The defendant named in the warrant shall reimburse the Board of Supervisors for cost and reasonable attorney fees expended to obtain the warrant.

B. Consultation - The Enforcement Officer may consult with the Township Engineer, Building Inspector or any other qualified person, in making the determination regarding a violation.

**503. Notice.**

Whenever an inspection discloses that a violation exists, the Enforcement Officer shall, upon authorization by the Board of Supervisors, issue a notice to the owner and/or occupant of the premises. The notice shall:

- A. Be in writing;
- B. Identify the premises and include a statement of the reasons it is being issued;
- C. State a reasonable time to rectify the conditions constituting the violation, and may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.
- D. Inform the owner that he has a right to a hearing in accord with Section 6 and that the notice shall automatically become an order if a written request for a hearing is not filed with the Board of Supervisors within thirty (30) days after such notice is served.
- E. Inform the owner that should he fail to comply with the order or request a hearing, the Township Supervisors will order the correction of the violation, and in accord with this Ordinance, will assess any and all costs, expenses (including, but not limited to, constable, attorney, engineering and consulting fees), and penalties incurred against the land on which the violation is located.

**504. Service of Notice.**

Except in emergency cases, the notice shall be sent by registered mail or by certificate of mailing, or personally delivered to, the owner, and/or the occupant of the premises. Where the owner is absent from the Township, all notices shall be deemed to be properly served upon the owner if:

- A. A copy of the notice is served upon the owner personally; or,
- B. A copy of the notice is sent by registered mail or by certificate of mailing to the last known address of the owner, regardless of receipt, and is posted in a conspicuous place on or about the premises affected by the notice; or,
- C. The owner is served with such notice by any other method authorized under the laws of the Commonwealth.

**505. Placard.**

The Enforcement Officer shall cause to be placed on all premises subject to a notice a placard reading substantially as follows:

*This premises has been found to be a public nuisance in violation of the Eaton Township Nuisance Property Ordinance. This notice is to remain on this property or building until the public nuisance is abated in accord with the notice which has been given to the owner, occupant, lessee, mortgagee, or agent of the premises. It is unlawful to remove this placard until compliance is made under the terms contained in the notice served on the above named party.*

**506. Hearing Appearance.**

The Enforcement Officer shall appear at all hearings conducted in accord with Section 6 and testify as to the violation.

**507. Emergency Cases.** (See definition in Section 3.)

Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, welfare or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to correct the violation and eliminate the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. The costs of such emergency correction shall be collected in the same manner as provided herein for other cases.

**SECTION 6 - HEARINGS**

The Board of Supervisors shall conduct hearings in accord with the Pennsylvania Local Agency Act, as amended, and the following:

**601. Failure to Request Hearing.**

Any notice served pursuant to this Ordinance shall automatically become an order if a written request for a hearing is not filed with the Board of Supervisors within thirty (30) days after such notice is served.

**602. Hearing Request.**

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Ordinance, may request and shall be granted a hearing on the matter before the Board; provided, that such person shall file with the Board in writing a request for a hearing setting forth a brief statement of the grounds therefore within thirty (30) days after the day the notice was served in accord with Section 504.
- B. Upon receipt of such request, a time and place for such hearing shall be scheduled and advertised in accord with the Pennsylvania Sunshine Law. The Board shall commence the hearing not later than sixty (60) days after the day on which the request was received in the Township office.

**603. Board Action.**



- A. At such hearing the person requesting the hearing shall be given an opportunity to be heard and to show cause why the public nuisance(s) described in the notice should not be abated. Township representatives shall also offer testimony and evidence related to the notice.
- B. Within thirty (30) days of such hearing, the Board will make written findings of fact from the testimony and evidence offered at the hearing and issue a decision to:
1. Sustain the notice;
  2. Modify the directives which are the subject of the notice and attach conditions; or,
  3. Withdraw the notice.

If the Board sustains or modifies such notice, it shall be deemed to be an order.

**604. Appeal.**

Any aggrieved party may appeal the final order to the Court of Common Pleas of Wyoming County in accordance with the provisions of the Pennsylvania Local Agency Law, as amended.

**605. Fee.**

The person requesting the hearing shall pay the fee for such hearing as may be established by resolution of the Board of Supervisors.

**SECTION 7 - VIOLATIONS; ENFORCEMENT REMEDIES; ACTION TO ABATE NUISANCE**

**701. Violations.**

Failure to comply with any provision of this Ordinance, removing a notice placard, and/or failure to comply with an order to abate a nuisance, shall be violations of this Ordinance.

**702. Judgement; Placard Removal.**

- A. Judgement - Any person who has violated or permitted the violation of any provisions of this Ordinance shall be guilty of a summary offense and upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments collected for the violation of this Ordinance shall be paid over to the Township.
- B. Placard Removal - Any person removing the notice placard provided for in Section 504 shall, upon conviction before a Magisterial District

Judge, be subject to a fine not exceeding one hundred (\$100.00) dollars.

### **703. Legal Actions.**

In addition to any other remedy available at law or in equity, the Township may institute the following actions against the owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

- A. Personam Action - An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six (6) months following receipt of an order to correct the violation, unless the order is subject to a pending appeal before the administrative agency or court.
- B. Recovery of Costs - Notwithstanding any law limiting the form of action for the recovery of penalties by the Township for the violation of a code, the Township may recover, in a single action under this Ordinance, an amount equal to any penalties imposed against the owner and any costs of remediation lawfully incurred by, or on behalf of, the Township to remedy any code violation.

### **C. Asset Attachment**

- 1. General Rule - A lien may be placed against the assets of an owner of 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 703 (relating to actions).
- 2. Construction - Nothing in this Ordinance shall be construed to authorize, in the case of an owner that is an association or trust, a lien on the individual assets of the general partner or trustee, except as otherwise allowed by law, limited partner, shareholder, member or beneficiary of the association or trust.

### **704. Out-of-State Owners of Real Estate.**

A person who lives or has a principal place of residence outside this Commonwealth, who owns property in this Commonwealth against which code violations have been cited 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 42 Pa.C.S. Ch. 91 (relating to detainers and extradition).

### **705. Association 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 an

association or trust cannot be accomplished by handing a copy of the notice or citation to an executive officer, partner or trustee of the 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 United States Express mail, accompanied by a delivery confirmation:

- A. To the registered office of the association or trust; or
- B. Where 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 the person in charge of the property at that time.

**706. Abatement by Township and Recovery of Costs.**

In addition to the other fines, penalties and costs which may be imposed by this Section 7, if the owner or person in control of any deteriorated or dangerous premises or condition constituting a violation of this Ordinance, fails to respond to a notice of violation directing the removal or abatement of the public nuisance or correction of the violation within the time limit prescribed by the notice, or fails to appeal to the Board of Supervisors, or fails to comply with the determination of the appeal made by the Board of Supervisors, the Enforcement Officer and/or the Board of Supervisors shall be empowered to cause such work of abatement to be commenced and/or completed by the Township, the Township may enter a municipal lien upon the premises to recover the cost and expense thereof.

**707. Other Remedies.**

In addition to the fines, judgments, and/or imprisonment remedies of this Section 7, the Board of Supervisors reserves the right to pursue independent and cumulative remedies at law or equity, including, but not limited to, reimbursement of all costs and reasonable attorney fees.

**SECTION 8 - SEVERABILITY**

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of Eaton Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 9 - REPEALER**

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**SECTION 10 - MUNICIPAL LIABILITY**

Eaton Township, and its agents, officials and representatives shall not under any circumstances be liable or legally responsible for activities or conditions which constitute a public nuisance under the terms of this Ordinance. Any liability or damages resulting from activities or conditions constituting a public nuisance are the sole responsibility of the owner of the property, or the person or persons responsible for said activity or condition. The failure to enforce the terms of this Ordinance shall not constitute a cause of action against Eaton Township or its agents, officials or representatives.

**SECTION 11 - EFFECTIVE DATE**

This Ordinance shall become effective five (5) days after the adoption thereof.

**ENACTED AND ORDAINED** into law by the Board of Supervisors of Eaton Township, Wyoming County, Pennsylvania, this 7th day of February 2017.

**Eaton Township Board of Supervisors:**

*Randy Ehrenzeller*

Randy Ehrenzeller, Chairman

*Paul Rowker*

Paul Rowker, Supervisor

*Kenneth White*

Kenneth White, Supervisor

ATTEST:

*Brenda Novak*

Brenda Novak, Secretary



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