

JACKSON TOWNSHIP, CAMBRIA COUNTY

ORDINANCE NO. 181

AN ORDINANCE OF THE TOWNSHIP OF JACKSON IDENTIFYING AND PROHIBITING THE MAINTENANCE OF NUISANCES UPON PUBLIC AND PRIVATE PROPERTY, AUTHORIZING ENFORCEMENT ACTIONS AND ESTABLISHING PENALTIES FOR THE VIOLATION AND ADDING PROVISIONS RELATED TO THE SECURING ANIMALS.

MADE this 27th day of September, 2018 at a regularly scheduled and duly advertised public meeting of the Board of Supervisors of the Township of Jackson, County of Cambria, Commonwealth of Pennsylvania as the Jackson Township Nuisance Ordinance.

WHEREAS, there is a need to regulate certain activities which create danger or reduce the property values of residents of the Township of Jackson; and

WHEREAS, the Township of Jackson is a municipality organized and operating under the authorizations set forth in the Second Class Township Code including but not limited to Sections 1529 and 1533; and

WHEREAS, the Township has previously adopted Ordinance No 169 on June 9, 2011, which itemized specific items of nuisance; and

WHEREAS, the Township Supervisors have found that certain activities related to failure to maintain and fence livestock can constitute a nuisance and wish to add provisions relating thereto in a comprehensive re-adoption of the Jackson Township Nuisance Ordinance in order to benefit the general public welfare of persons located within the Township.

NOW THEREFORE, Be it Ordained and Enacted by the Board of Supervisors of Jackson Township, as follows:

ARTICLE I - Definitions

Animal shall mean any animal, mammal, fowl or reptile, domestic or agricultural, excepting only persons or domestic cats.

Automobile or Motor Vehicle shall also include other items of personal property such as equipment, machinery, appliances or other items of personal property.

Discovery of Escape of an animal shall mean the earlier of: (1) the time the responsible person had actual knowledge of the escape of the animal, or (2) the time

any responsible person, their legal representative or adult member of their household is notified of the escape of the animal by telephone, mail, or posting upon the property on which the animal was last confined, or (3) when a person taking reasonable care of animals should have known of its escape.

Hazardous Substances shall mean substances which, upon released into the atmosphere, water, or soil, or which, in direct contact with the skin, eyes, or mucous membranes, or as additives to food, cause health risks to humans or animals through absorption, inhalation, or ingestion. The term includes any substance rendered unsafe through improper handling, transportation, or storage.

Owner shall refer to either the owner of real property upon which a nuisance is located, or the owner of personal property constituting a nuisance.

Person Responsible shall mean the person or legal entity either: (1) owning the property upon which the animals were legally located and from confinement upon which the animals escaped, or (2) the person having custody or legal evidence of ownership of the animals.

Traditional Farming shall mean the raising of plant crops, raising animals for slaughter, milk, wool or other agricultural product; it shall not mean game farms or hunting preserves, or the raising of animals in connection therewith.

ARTICLE II - Prohibited Activities

- A. The following activities are declared to constitute public nuisances and shall not be permitted to be carried out within the confines of the Township of Jackson:
- 1) Manufacture, distribution or storage of illegal drugs, or storage and use of hazardous chemicals in a manner which can reasonably be expected to lead to the pollution of ground or surface water.
 - 2) Obstruction of public roads or right-of-ways .
 - 3) Except for growing crops or pasture actually being utilized for domestic farm animals, it shall be a nuisance to permit the growth of grass, weeds or noxious plants greater than twelve inches in height within 500 feet of any occupied residential, commercial or institutional structure. This shall not apply to undisturbed and uncleared forest lands.
 - 4) Storage of abandoned or junked automobiles or other vehicles which can be demonstrated to present a danger to the public from either of the following: (i) potential for pollution, or (ii) harboring wild animals or pests,

or (iii) presenting an attractive nuisance to children, or (iv) in a state of disrepair involving broken glass, sharp edges, leaking fluids, or broken lock assemblies, except in compliance with a junkyard permit and compliance with applicable regulations under ordinances.

- 5) Maintenance of a dangerous structure or building in which a danger exists by virtue of: (i) lack of structural integrity, or (ii) the presence of hazardous substances in a form other than permitted by law, or (iii) attractive nuisances not adequately secured to prevent the entrance of children, or (iv) fire hazards, or (v) otherwise in a state of substantial disrepair.

- 6) Unreasonable noise which is not reasonably necessary as part of a business or is otherwise avoidable by implementation of reasonable measures, which can be heard at a neighboring residence or business, including but not limited to:

- a) amplified sound;
- b) dog barking for more than 10 continuous minutes.

Noise nuisances should be considered on a case by case basis weighing the utility of the noise to a person's business or occupation and the ease which with the noise could be abated.

- 7) The Board of Supervisors may declare an activity or condition of property not otherwise provided for in this or other ordinances of the Township to be a public nuisance by motion at a public meeting, pursuant to the authorization set forth in Section 1529 of the Second Class Township Code. Such motion shall contain a short statement of reasons for the action, which shall be recorded in Township minutes.

- 8) Animals kept and maintained by any person within Jackson Township must be reasonably secured by fences, enclosures or other means sufficient to prevent the animal's escape. It shall be a violation of this Ordinance for any person responsible to commit or permit any of the following actions:

- a) permit an animal to leave the property upon which it is confined; or
- b) permit an animal to enter onto a public roadway (other than crossing the road under supervision to change pasturage) or property upon which express permission has not been given in advance; or
- c) fails to take immediate steps to capture and re-confine any animal which has escaped from the property to which it was confined; or
- d) fails to adequately maintain enclosure or fences for animals kept on

the property.

- 9) Any activity which has been acknowledged as a nuisance by the various courts of the Commonwealth of Pennsylvania.

B. Exceptions.

This Ordinance shall not apply to and no prosecution shall be made in the following situations:

- a) With regard to animals leaving fenced enclosures, no prosecution shall be made the first time that animals leave an enclosure within any three-month period provided the person responsible re-confines the animals within no more than 24 hours from notice or discovery of the escape.
- b) With respect to an owner of property who leases land to another for traditional farming operations, no prosecution shall take place against the owner of property until they have been given 24 hours notice to recapture the animals.

ARTICLE III - Abatement of Nuisance

- 1) The Board of Supervisors, or their designated Enforcement Officer, may require the owner to remove any nuisance or dangerous structure on public or private grounds.
- 2) The Board of Supervisors, or their designated Enforcement Officer, shall notify any owner of the existence of a nuisance and the requirement to abate it. Notice shall be provided by one of the following methods:
 - a) certified mail to the property owner, or owner of the personal property constituting the nuisance at their residence; or
 - b) where the owner is unknown or cannot be located, then by posting the land structure or personal property constituting the nuisance; or
 - c) a personal conversation with the responsible person; or
 - d) another method which is reasonably expected to notify the person.
- 3) Other than as provided for above related to animals outside of an enclosure, the Notice to abate a nuisance shall contain a time within which the nuisance must be abated, which shall be based upon the circumstances but not less than five (5) days nor more than 30 days. The Board of Supervisors, or their designated Enforcement Officer, may grant an extension of time for abatement upon good cause shown.

ARTICLE IV - Remedies upon Default

Where the owner fails to abate a nuisance within the time prescribed, the Board of Supervisors may in their discretion:

- 1) file a citation with the local magistrate for violation of this Ordinance, or
- 2) bring an action in the Court of Common Pleas of Cambria County to compel compliance by the owner with the provisions of this Ordinance, or
- 3) Perform the work necessary to abate the nuisance and assess the costs against the owner in a manner prescribed by law.

Actions for enforcement of this Ordinance may be brought by the Chairman of the Township Board of Supervisors, the Township Codes Enforcement Officer, any Township Police Officer, or other person designated by motion of the Board of Supervisors at a duly advertised public meeting.

ARTICLE V - Presumptions

It shall be a rebuttable presumption that if any animals have escaped from a property more than once within a three-month period that the person responsible has not maintained fences upon the property in the manner required by this Ordinance.

ARTICLE VI - Penalties

Violation of this Ordinance shall be punishable by a fine in an amount not to exceed \$600.00 and imposition of legal costs as required by law. Each day that a nuisance continues shall be deemed a separate violation subject to a separate fine up to the maximum amount.

ARTICLE VI- Repealer

This Ordinance is intended to be in addition to other Township Ordinances dealing with particular and specific situations and activities and shall not act as a repealer of any such prior ordinance. The declaration of nuisances contained herein and procedures set forth are not intended to supercede or preempt or displace any prior Township rules, regulations or findings with respect to public or private nuisances.

ARTICLE VII - Severability

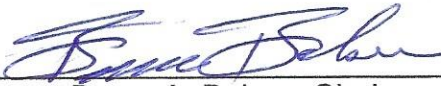
In the event that any part of this Ordinance is found to be void or without legal effect, it is the intention of the Supervisors that the remaining portions of this Ordinance shall remain in effect.

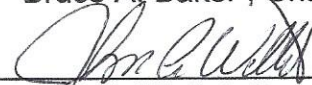
ARTICLE VIII - Effective Date

This ordinance shall take effect five (5) days following adoption.

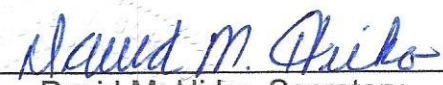
ORDAINED AND ENACTED into law by the governing body of the Township of Jackson in lawful session assembled this 27th day of September, 2018.

TOWNSHIP OF JACKSON

By: 
Bruce A. Baker, Chairman

By: 
John A. Wallet, Supervisor

ATTEST:


David M. Hirko, Secretary
(Seal)

By: 
Eric W. Dreikorn, Supervisor