

**BOARD OF SUPERVISORS
LEHMAN TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 10-15-12

AN ORDINANCE OF THE TOWNSHIP OF LEHMAN, LUZERNE COUNTY, PENNSYLVANIA SETTING FORTH THE DEFINITIONS AND REGULATIONS FOR THE MAINTENANCE OF PROPERTY WITHIN LEHMAN TOWNSHIP, AND PROVIDING PENALTIES FOR VIOLATION; ENFORCEMENT; REPEALER CLAUSE; VALIDITY CLAUSE AND EFFECTIVE DATE.

WHEREAS, Lehman Township ("Township") is a Second Class Township, governed by the Second Class Township Code, 53 P.S. 65101 *et seq.*, which authorizes the Township to adopt ordinances for the protection of the public health, safety and welfare; and

WHEREAS, the maintenance of property within Lehman Township may create a public nuisance and adversely affect the public's health, safety and welfare; and

WHEREAS, the purpose of this Ordinance is to provide for the reasonable regulation of the maintenance of property within Lehman Township so as protect the public's health, safety and welfare; and

WHEREAS, the Board of Supervisors of Lehman Township desires to enact an ordinance regulating the maintenance of property within Lehman Township to protect the public health, safety and welfare of the general public.

NOW, THEREFORE, be it **ORDAINED and ENACTED**, and it is hereby ordained and enacted as follows:

SECTION I. Interpretation and Applicability:

Every building, structure and premises shall conform to the requirements of this ordinance, irrespective of the class to which such building, structure and premises may otherwise belong, and irrespective of when such building may have been constructed, altered or repaired.

This ordinance shall be known as the "Property Maintenance Ordinance" and establishes minimum standards for maintenance of buildings, structure and premises and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings and structures except such as are in conflict with the provisions of this ordinance. Any inconsistency or conflict between the provisions of this ordinance and any other existing ordinance shall not repeal such provision or ordinance; but the provisions of this ordinance shall be cumulative thereto.

SECTION II. Definitions:

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section:

- (a) Accessory Structure. A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.
- (b) Basement. That portion of the building, the floor line of which is below the surface of the ground immediately adjoining it and its ceiling not more than four feet above lot grade.
- (c) Building. A combination of materials to form a construction adapted to permanent or temporary use for residence, business or storage.
- (d) Deterioration. The condition or appearance of a building or structure or part thereof, characterized by breaks, holes, rot, crumbling, cracking, peeling, rusting, inadequate paint or other evidence of decay or neglect.
- (e) Dwelling. Any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant.
- (f) Extermination. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods.
- (g) Fence. An independent structure forming a barrier at grade or between lots, between a lot and a street or an alley, around a pool or body of water or between portions of a lot or lots and includes a wall or lattice-work screen but excludes a hedge or natural growth, or a barrier of less than eighteen inches in height which is used to protect plant growth.
- (h) Garbage. Garbage is all waste, animal, fish, fowl or vegetable matter incident to and resulting from the use, preparation and storage of food for human consumption.
- (i) Infestation. The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
- (j) Nuisance. (1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the Statutes of the State of Pennsylvania, or the ordinances of the Lehman Township. (2) Any attractive nuisance which may prove detrimental to the health or safety of children in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation such as poison ivy, oak sumac, which may prove a hazard for inquisitive minors.
- (k) Occupant. Any person occupying or having use of a building, structure,

premise or any part thereof.

(l) Operator. Operator shall mean any person who has charge, care or control of a building, structure or premise or a part thereof.

(m) Owner. Any person who alone, jointly, or severally with others, shall hold title to a building, structure or premise, or who shall be in actual possession of, or have charge, care or control of a building, structure or premises as an employee or agent of the title holder, or who shall be trustee or guardian of the estate or person of the title holder.

(n) Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this ordinance prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.

(o) Refuse. All solid waste (except body waste) including but not limited to: rubbish, ashes, street cleanings, abandoned, non-licensed or inoperable motor vehicles and solid market and industrial wastes.

(p) Repair. To restore to a state of operation, serviceability, or appearance in conformity with this ordinance.

(q) Replace. To remove an existing item or portion of a building or structure and to construct or install a new item of similar or improved quality as the existing item when it was new. Replacement will ordinarily take place when the item is incapable of repair.

(r) Rubbish. Rubbish is the miscellaneous waste material, combustible and noncombustible, resulting from housekeeping and ordinary mercantile enterprises, and includes but is not limited to boxes, cartons, excelsior, paper, ashes, cinders, tin cans, bottles and broken glass, rubber, grass clippings, brush, leaves and garden plants.

(s) Structure. Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a building, fence, freestanding wall, sign or other advertising medium, whether detached or projecting.

(t) Substandard. All buildings which do not conform to the minimum standards established by this chapter and by any other provisions of this ordinance.

(u) Weathering. Deterioration, decay or damage by exposure to the elements.

(v) Yard. An open space at grade on the same lot as a building or structure located between such building or structure and the adjoining lot line, and/or street line.

(w) Meaning of Certain Words. Whenever the words "building", "structure", "premise", are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof".

SECTION III. Responsibilities of Owners, Operator and Occupant Independent of Each Other:

Owners and operators shall have all the duties and responsibilities as prescribed in this Ordinance and the regulations promulgated pursuant thereto, and no owner or operator shall be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefore and is in violation of such responsibility.

SECTION IV. Duties and Responsibilities of Owners and Operators:

(a) Maintenance and Appearance of Exterior of Premises.

(I) The exterior of premises and all structures thereon shall be kept free of all nuisances, unsanitary conditions, and any hazards to the safety of occupants, pedestrians and to the persons utilizing the premises. Any of the foregoing shall be promptly removed and abated by the owner or operator.

(II) The exterior of the premises and surrounding yard shall be kept free of hazards which include, but are not limited to: brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris.

(III) The exterior appearance of all buildings shall reflect a level of maintenance in keeping with the standards of the neighborhood. It shall not constitute a blighting factor for adjoining property owners or an element leading to the progressive deterioration and downgrading of the neighborhood.

(IV) The premises shall be kept landscaped and lawns, hedges and bushes shall be kept trimmed and from becoming overgrown, and unsightly where exposed to the public view. Premises shall include the areas between the sidewalk and the curb of the street.

(V) In addition to (IV) above, no grass upon any private premises within the Township limits shall be allowed to grow in excess of an average length of nine inches before mowed, cut or trimmed, provided, however, that this provision shall not apply to land with a pitch greater than 30 degrees from horizontal.

(VI) Yards shall be kept substantially clear of debris and shall be provided with adequate lawn, ground cover or vegetation. Hedges

or bushes shall be cut or trimmed as often as necessary to maintain a neat and attractive appearance. All areas not covered by any of the foregoing shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which over hang a public entrance shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians.

(VII) Every yard, court, driveway or other portion of the lot shall be graded or drained so as to prevent the accumulation of stagnant water on any such surface. Driveways shall be maintained in good condition and repair.

(VII) Every building, structure and all exterior appurtenances on the premises shall be adequately protected against rats, mice, termites, and other vermin infestation, and shall not permit the entrance of such rats, mice, termites, and other vermin. Occupants and operators shall be responsible for the extermination of rodents and vermin from that part of the premises under their exclusive control except where more than one unit is infested at the same time and in this instance the owner shall also be responsible for extermination of the infestation.

(IX) Every building shall have adequate refuse, garbage or rubbish storage facilities. No occupant shall accumulate rubbish, boxes, lumber, metal refuse or other materials which may provide a harborage for rodents or vermin.

(X) The exterior of every structure or accessory structure, residential and non-residential, including fences, shall be maintained in good repair and all surfaces thereof shall be kept painted where necessary for purposes of preservation and appearance. The same shall be maintained free of broken loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.

(XI) Every dwelling and accessory structure, exterior walls, siding and roofs shall be kept structurally sound and in a state of good repair to avoid safety, health or fire hazards and shall be so maintained as to be weather and water-tight. (The above applies to residential and non-residential properties.)

(XII) This Ordinance applies whether or not the premises are temporarily or continuously occupied or unoccupied, inhabited or uninhabited, commercial or noncommercial, and whether or not there is a structure, building or other improvement upon the premises.

SECTION V. Inspection by Zoning Officer or designee:

The Zoning Officer or his/her designated representative is authorized and upon receipt of complaint shall make exterior inspection to determine whether the buildings, structures and premises located within this Township conform to the requirements of this Ordinance. For the purpose of making exterior inspections, the Zoning Officer or designee is authorized to enter, examine and survey at all reasonable times the exterior portions of all buildings, structures or premises. Every owner or occupant shall give the Zoning Officer or designee free access to any said premises. The Zoning Officer or his/her delegated representative, having probable cause to believe a violation of this Ordinance exists, shall have authority to enter any of such premises after written notice has been given to the owner, occupant or his agent. If, after such notice is given, access is denied to the Zoning Officer or designee, he or she may apply to the Municipal Court for a special inspection warrant.

SECTION VI. Administrative Provisions:

(a) The Zoning Officer or designated representative is hereby made responsible for the enforcement of this Ordinance. All inspections, enforcement, orders or matters relating to violation of this Ordinance shall be under his/her direction and supervision. He/she may appoint or designate such other public officials or employees of the Township to perform duties as may be necessary to the enforcement.

(b) The Zoning Officer or designee shall be supplied with official identification and upon request shall exhibit such identification when entering any premises subject to this ordinance. The Zoning Officer/designee shall conduct themselves as to avoid intentional embarrassment or inconvenience to occupants.

SECTION VII. Notice:

Whenever the Zoning Officer or designated representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, notice of such alleged violation shall be given to the person or persons responsible therefore, which shall:

(a) Be in writing;

(b) Indicate the nature of the violation(s) and shall cite the Section and subsection, if any that has been violated.

(c) Indicate the time for the correction of the violation in accordance with (e) hereof;

(d) Be served upon the owner or his agent, or the occupant or operator, as the case may require. Such notice shall be deemed to be properly served upon such owner or his agent, or occupant, or operator, if a copy thereof is:

- (I) Served upon him personally, or
- (II) Sent by regular mail to the owner at its last known address, or
- (III) Posted in a conspicuous place in or about the building or structure affected by notice, or
- (IV) Served upon a member of the family of the owner, operator or occupant 14 years of age or older.

(e) State a reasonable amount of time, not to exceed 30 days, to correct or abate the violation;

SECTION VIII. Noncompliance - Remedy of Defects:

(a) The owner, occupant or operator of any building, structure or premises shall have the time as specified in the notice under Section (7) to remedy the violations specified in such notice.

(b) In the event the Zoning Officer or designated representative shall determine, in his/her discretion, that the owner, occupant or operator is, within said time, making a good faith effort to correct the violations, he/she may extend the time for compliance.

SECTION IX. Transfer of Ownership of Non - Complying Building:

It shall be unlawful for the owner of any building, structure or premises who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish to the Zoning Officer or designated representative a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION X. Penalties:

(a) A violation of any section or subsection of this Ordinance shall be punishable by a fine or forfeiture not to exceed \$200.00 for each violation committed hereunder, or upon failure to pay, by imprisonment in the county jail for not more than 60 days.

(b) Each day a violation exists after the notice of violation has been received and which becomes an order of the Zoning Officer or designated representative shall constitute a separate violation of this Ordinance.

(c) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this

Ordinance or otherwise

SECTION XI. Repealer:

All other ordinances or parts thereof, which are in conflict with this Ordinance, are hereby repealed.

SECTION XII. Validity:

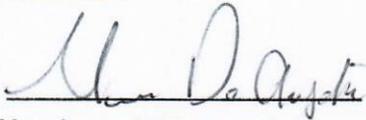
The provisions of this Ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

SECTION XIII. Effective Date:

This Ordinance shall become effective five days after the adoption hereof.

Adopted 15TH Day of OCTOBER, 2012

ATTEST:



Marian DeAngelis,

Assistant Secretary

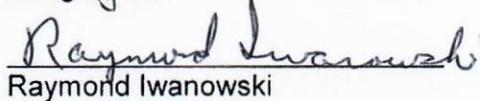
Board of Supervisors of
Lehman Township



David Sutton



Douglas Ide



Raymond Iwanowski