

**BENTON TOWNSHIP**

**ORDINANCE NO. 99-4**

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF BENTON TOWNSHIP, LACKAWANNA COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES ON PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP; PROVIDING FOR THE REMOVAL THEREOF BY THE TOWNSHIP; AND FIXING PENALTIES FOR VIOLATION.

WHEREAS, The Board of Supervisors deems it to be in the best interests and general welfare of the citizens and the residents of this Township to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which causes injury, damage, hurt, inconvenience, annoyance, or discomfort, to others in the legitimate enjoyment of their rights of person or property; and

WHEREAS, Section 702 of the Second Class Township Code, 1933, May 1, P.L. 103, Art. VII, § 702, cl. XII, as amended, 53 P.S. § 65712, authorizes townships of the second class to prohibit nuisances, to remove same, and to impose penalties therefor.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, and it is enacted and ordained, by the Board of Supervisors of this Township, as follows:

SECTION 1. DEFINITIONS. For the purposes of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

- (1) "Township" is the Township of Benton, Lackawanna County, Pennsylvania.
- (2) "Board of Supervisors" is the Board of Supervisors of Benton Township, Lackawanna County, Pennsylvania.
- (3) "Owner" is a person owning, leasing, occupying or having charge of any premises within the Township.
- (4) "Person" is any natural person, firm, partnership, association, corporation, company or organization of any kind.
- (5) "Nuisance" is the unreasonable, unwarrantable or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of his or her reasonable rights of person or property.

SECTION 2. NUISANCES DECLARED ILLEGAL. Nuisances, including but not limited to the following, are hereby declared to be illegal:

- (A) Drainage or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, wash stands, lavatories, water closets, swimming pools, privies or cesspools of any kind or nature whatsoever, or any other foul or offensive water or foul or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley in the Township into or upon any said highway, road, street, avenue, lane, or alley; or from any property into or upon any adjoining property.
- (B) Burning tires, plastics, or tar products.
- (C) Maintaining or causing to be maintained any dangerous structure, including but not limited to abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.
- (D) Permitting or allowing any well or cistern to be or remain uncovered.
- (E) Interfering with the flow of a stream, creek or other waterway, by means of dam construction or otherwise.
- (F) Removing the embankment of a stream so as to alter the natural flow of the stream.
- (G) Allowing or permitting any excavation, material excavated, or obstruction, on or adjoining any highway, street or road, to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.

SECTION 3. WRITTEN NOTICE TO VIOLATORS REQUIRED. Whenever a condition constituting a nuisance is permitted or maintained, the Board of Supervisors shall cause written notice to be served upon the owner in one of the following ways:

- (A) By making personal delivery of the notice to the owner.
- (B) By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides; but if no adult member of the family is found, then to an adult person in charge of such residence.
- (C) By fixing a copy of the notice to the door at the entrance of the premises in violation.
- (D) By mailing a copy of the notice to the last known address of the owner by certified mail.

- (E) By publishing a copy of the notice in the local newspaper once a week for three successive weeks.

Such notice shall set forth in what respects such condition constitutes a nuisance, and whether removal is necessary and required by the Township, or whether the situation can be corrected by repairs, alterations or by fencing or boarding or in some way confining and limiting the nuisance. Such notice shall require the owner to commence action in accordance with the terms thereof within twenty-one (21) days and thereafter to comply fully with its terms with reasonable dispatch, all material to be supplied and work done at the owner's expense; provided, however, that if the violation charged is under Section 2(D) or (G) and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

SECTION 4. PENALTY FOR VIOLATION. If the owner after receiving due notice refuses to comply with the terms thereof:

- (1) He shall be guilty of a violation of this ordinance and shall upon conviction thereof, pay a fine of not more than three hundred (\$300.00) dollars and the costs of prosecution, and, in default of payment of such fine and costs of prosecution, shall be imprisoned for not more than ten (10) days; provided, each day's continuance of a violation shall constitute a separate offense.
- (2) The Board of Supervisors may direct the removal, repairs or alterations, as the case may be, to be done by the Township and the cost thereof with a penalty of 10% may be collected from the owner of the premises by an action of assumpsit or the Township may file a municipal claim or lien therefore against such real estate. The Township by means of a complaint in equity may compel the owner to do so or seek such other relief as such court is empowered to afford.


SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holdings shall not affect the validity of the remaining portions hereof.

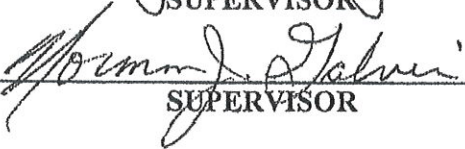
SECTION 6. EFFECTIVE DATE. This ordinance shall become effective five (5) days after the adoption hereof.

ENACTED AND ORDAINED this 4 day of November, 1999, in lawful session duly assembled.


BOARD OF SUPERVISORS, BENTON TOWNSHIP  
Lackawanna County, Pennsylvania

By:   
CHAIRMAN

By:   
SUPERVISOR

By:   
SUPERVISOR

ATTEST:

  
Secretary