

**POCOPSON TOWNSHIP**

**CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. \_\_\_\_ – 2020**

**AN ORDINANCE OF THE TOWNSHIP OF POCOPSON,  
CHESTER COUNTY, PENNSYLVANIA, AMENDING THE  
POCOPSON TOWNSHIP CODE OF ORDINANCES, AS  
AMENDED, TO REVISE THE NUISANCE REGULATIONS  
WHICH ARE CODIFIED IN CHAPTER 129.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Pocopson Township that Chapter 129 of the Pocopson Township Code of Ordinances, as amended, entitled, “Nuisances” is amended in its entirety as follows:

**“Chapter 129**

**Nuisances**

**§ 129-1. Purpose.**

The Board of Supervisors of Pocopson Township, Chester County, Pennsylvania deems it to be in the best interest and general welfare of the citizens and the residents of this Township to prohibit the unreasonable, unwarranted 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.

**§ 129-2. Definitions and word usage.**

- A. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein, except in those incidences where the context clearly indicates a different meaning:

**ABANDONED OR JUNKED MOTOR VEHICLES**

Any vehicle, other than an antique or collectible motor vehicle (as defined by the Motor Vehicle Code, 75 Pa. C.S.A. § 101 et seq.) which is actively being restored, in a nonserviceable or nonoperational condition or without a current inspection sticker and current registration. Excluded for the purpose of this definition are vehicles for which the owner obtains current inspection stickers and a current registration within a reasonable time frame as determined by the Township.

**ABANDONED OR JUNKED TRAILERS**

Any trailer in a nonserviceable or nonoperational condition or without a current registration. The term "trailer" shall include, but shall not be limited to, utility trailers, construction trailers, horse trailers, boat trailers and snowmobile trailers.

## **ANTIQUE MOTOR VEHICLE**

A motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications.

## **BOARD OF SUPERVISORS**

The Board of Supervisors of Pocopson Township, Chester County, Pennsylvania.

## **COLLECTIBLE MOTOR VEHICLE**

A reconstructed or modified motor vehicle substantially modified from the manufacturer's original specifications and appearance and maintained in a collectible condition as determined by the Commonwealth of Pennsylvania Department of Transportation.

## **NUISANCE**

The unreasonable, unwarrantable, or unlawful use of or activity on any public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of person or property. This shall include any activity, condition, structure or improvement which shall constitute a threat or potential threat to the health, safety, or welfare of the citizens of the Township. Excluded is any agricultural activity or operation conducted using normal farming operations within the Township's Agricultural Security Area.

## **NUISANCE VEGETATION**

Any grass, weeds, lawn areas or any vegetation not grown for human consumption or planted for some useful or ornamental purpose. This shall include, but not be limited to, plants determined to be invasive or injurious to public health, crops, livestock, agricultural land or other property as included on Pennsylvania's Noxious Weed Control List. Excluded is vegetation in undisturbed woodlands, hedgerows, steep banks and similar natural areas.

## **OWNER**

A person owning, leasing, occupying or having charge of any premises within the Township.

## **PERSON**

Any natural person, association, partnership, firm, club, society, company, corporation or any organization of any kind. Whenever used in connection with prescribing or imposing a penalty, or both, the term as applied to a partnership shall include the individual partners, or any of them, and as applied to corporations or associations shall include the individual officer(s) thereof.

## **TOWNSHIP**

Pocopson Township, Chester County, Pennsylvania.

- B. 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; the masculine shall include the feminine and the neuter; and the word "shall" is always mandatory and not merely directory.

**§ 129-3. Nuisances.**

It shall be unlawful for any person to create or maintain any condition, activity or use upon their property which could directly or indirectly cause a nuisance or health hazard to a resident of the Township. While not intended to be a comprehensive list, the establishment, maintenance, operation, or continuance of any of the following at any time within the Township is hereby declared to be a nuisance under the terms of this chapter.

- A. The maintenance, storage or accumulation of the following:
  - (1) Garbage or rubbish;
  - (2) Junk material, including, but not limited to, unused or abandoned machinery, equipment or appliances, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste or other similar materials; and/or
  - (3) Any other materials which are conducive to the harboring of vermin, or otherwise cause a potential health hazard or nuisance.
- B. The maintenance, storage or accumulation of one or more abandoned or junked motor vehicles or trailers.
- C. Storing or accumulating more than three antique or collectible motor vehicles for restoration outside if not screened from the right of way or adjacent properties.
- D. The maintenance or causing the maintenance of abandoned or neglected buildings, structures, sidewalks or premises which shall pose or constitute any of the following conditions or hazards:
  - (1) A fire hazard;
  - (2) A danger of infestation by vermin;
  - (3) Standing water that creates a breeding location for mosquitoes;
  - (4) An unsafe area, building or condition which is or which might potentially serve as an area of play or general attraction for children or the public in general;

- (5) Buildings, structures, sidewalks or premises, or parts thereof, which have been damaged by fire, wind or other causes so as to become dangerous to life or safety of the occupants or to others in the vicinity;
  - (6) Buildings, structures, sidewalks or premises, or parts thereof, which have become or are so dilapidated, decayed or unsafe that they are unfit for human habitation or are likely to cause injury to occupants or to others in the vicinity;
  - (7) Buildings or structures having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, fire escapes or other means of access and egress;
  - (8) Buildings, structures, sidewalks or premises, or parts thereof, which are in such condition that they may fail, collapse, break down, or otherwise cause damage to property or injury to members of the public;
  - (9) Allowing or permitting any excavation, material excavated or obstruction on or joining any highway, street or road, to remain opened or exposed without the same being secured by a suitable barricade, a temporary fence or other protective materials.
- E. The draining 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, privies, septic systems 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.
- F. The draining or flowing, or allowing to drain or flow, any water or drainage from within dwellings situate upon property along any public highway, road, street, avenue, lane or alley in the Township into or upon the cartway or traveled portion of any said highway, road, street, avenue, lane or alley, except where provision has been made in said cartway or traveled portion for said drainage by means of a drainage ditch or otherwise.
- G. The discharge of chlorinated or otherwise chemically treated water from swimming pools, hot tubs or other such devices into streams or waterways in the Township.
- H. Removing or altering the embankment of a stream so as to alter the natural flow of the stream.
- I. Dumping or allowing to be dumped any trash, garbage, leaf or lawn waste, branches, brush, manure or any other materials in any drainage swale, stream or waterway.

- J. Interfering with the flow of a stream, creek or other waterway, by means of a dam, construction or otherwise.
- K. Permitting or allowing any well or cistern to be or remain uncovered.
- L. Placing or allowing to be placed municipal waste or recycling containers at the curb or in the front yard more than 24 hours before the normally scheduled collection time or leaving such containers at the curb or in the front yard for more than 24 hours after the normally scheduled collection time.
- M. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by the Township or by the Commonwealth of Pennsylvania, and allowing the same to remain thereon.
- N. The establishment, maintenance, carrying on or permitting of any use or activity which is dangerous, injurious, offensive or damaging to the property of others, or which prevents the reasonable use, comfort or enjoyment of the property of others by reason of flames, odor, smoke, fumes, dust, gas, noise, dirt, vibration or emission of electromagnetic waves. In determining the offensive or damaging nature of any of the aforesaid items, the Township is not required to make quantitative measurements by instrumentation or other testing, but, instead, may utilize the reasonable and substantial determinations of affected individuals, property owners or occupiers, as well as testimony of the Code Enforcement Officer or other persons authorized by the Township.
- O. Permitting, maintaining or causing the maintenance of vegetation which shall pose or constitute any of the conditions listed in Subsection O(1) through (5) below. Excluded from this subsection are wooded areas and open fields or acreage to within 100 feet of any building or structure, pasture or crop field.
  - (1) The growth of any grass, weed, or other vegetation to conceal any rubbish, garbage, trash or any other violation of this chapter.
  - (2) The growth or maintenance of any lawn grasses so as to exceed a height of six inches.
  - (3) The growth or maintenance of nuisance, noxious or invasive vegetation including but not limited to ragweed, thistle, goldenrod, poison ivy, poison oak, poison sumac, multiflora rose, bamboo, or other similar vegetation in such a manner that it extends or borders upon or overhangs any street, roadway, sidewalk or other public place.
  - (4) The unmanaged growth of weeds included on Pennsylvania's Noxious Weed List.

- (5) The planting of bamboo within ten (10) feet of a property line or allowing bamboo roots to invade another's property.
- P. Allowing sediment or gravel from any unpaved or unmaintained driveway to be discharged into the street drainage system or onto the cartway or traveled portion of any public highway, road or street which is maintained by the Township or by the Commonwealth of Pennsylvania.
- Q. 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.
- R. Partially or completely obstructing any public highway, road, street, avenue, lane, alley or right-of-way in the Township by or as a result of felling trees, dumping or piling material of any kind, making fences, altering or turning the highway, road, street, avenue, lane, alley or right-of-way, diverting water, or by any other means.

**§ 129-4. Notice of violation.**

- A. Whenever a condition constituting a nuisance or health hazard is verified to exist by the Township Code Enforcement Officer, the Code Enforcement Officer shall make an effort to contact the owner of the property to discuss remediation of the nuisance. If the property owner fails to take steps to remediate the nuisance or if the owner cannot be found or fails to respond to efforts to contact him, the Code Enforcement Officer shall cause a written notice to be served upon the property where the nuisance is located in one of the following ways:
  - (1) By certified mail, return receipt requested, to the last known address of the owner;
  - (2) By making personal delivery of the notice to the owner;
  - (3) By posting a copy of the notice upon the front door of the premises; or
  - (4) 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.
- B. 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 remove, repair, or abate the nuisance in accordance with the terms thereof within a

period of time specified by the Code Enforcement Officer, all material to be supplied and work done at the owner's expense; provided, however, that if the violation and the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

**§ 129-5. Violations and penalties.**

Any person who, after delivery or posting of notice as provided for in § 129-4, fails to completely comply with the terms of the notice shall be determined to be in violation of this chapter and, upon conviction thereof before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rule of Criminal Procedures, shall be sentenced to pay a fine not to exceed \$1,000, plus costs of prosecution, including reasonable attorney's fees, or sentenced to undergo imprisonment for a period not exceeding 90 days, or both. Each day that a violation of this chapter continues shall constitute a separate offense.

**§ 129-6. Abatement of nuisances by Township.**

In addition to, or instead of, invoking the penalties set forth in § 129-5, the Township, or persons authorized by the Township, may, in the event of any continued violations of this chapter, enter upon the offending premises and remove, repair, alter, or otherwise abate any nuisance, hazard or dangerous structure or condition on such property, or otherwise abate any identified nuisance or health hazard. The Township may collect the costs of such removal or abatement including reasonable attorney's fees, together with a penalty of 10% of any costs, from the owner of the property. The actual costs of such removal or abatement, together with the penalties, costs and reasonable attorney's fees, shall be a lien upon such property, and may be enforced against the property and recovered by the Township in the manner prescribed for the levying and collecting of municipal liens under appropriate law.

**§ 129-7. Additional relief.**

The Township may, by means of a complaint at law or in equity, compel the person or owner to comply with the terms of any notice of violation, or seek any other appropriate relief, including, but not limited to, an injunction, from any court of competent jurisdiction.”

**SECTION 2. 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 hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

**SECTION 3. REPEALER.** All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance. Notwithstanding the foregoing, the adoption of this amendment and the repeal of ordinances shall not affect the any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.

**SECTION 4. GENERAL CODE.** General Code is hereby authorized to make non-substantive formatting and numbering changes necessary to clarify references to other sections of the Pocopson Township ordinances and/or codification and to bring the Ordinance into conformity with the Pocopson Township ordinances/codification.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective five days after enactment as provided by law.

**ENACTED AND ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

**BOARD OF SUPERVISORS  
POCOPSON TOWNSHIP**

\_\_\_\_\_  
Susan Simone, Secretary

\_\_\_\_\_  
Ricki Stumpo, Chairman

\_\_\_\_\_  
Elaine DiMonte, Vice-Chairman

\_\_\_\_\_  
Raymond McKay, Supervisor