

FISHING CREEK TOWNSHIP  
COLUMBIA COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022-02  
PUBLIC NUISANCE CODE ORDINANCE

**§02 – 101. General.**

1. Title. These regulations shall be known as the “Public Nuisance Code of Fishing Creek Township”.
2. Scope. This part is to protect the public health, safety, and welfare in all existing structures, residential and non-residential, and on all existing premises as herein after provided by:
  - A. Prohibiting the unreasonable, unwarranted, or unlawful use of private or public property, which causes or may cause injury, damage, hurt, inconvenience, or discomfort to others in the legitimate enjoyment of their rights of person or property.
  - B. Establishing the responsibilities of owners, operators, and occupants of all structures and premises.
  - C. Providing for administration, enforcement, and penalties.
3. Officer.
  - A. It shall be the duty and responsibility of the Code Enforcement Official to enforce the provisions of this Ordinance as herein provided.
  - B. Notices and Orders. The Code Enforcement Official shall issue all necessary notices and orders to abate illegal or unsafe conditions, to ensure compliance with the requirements of this Ordinance for the safety, health, and general welfare of the public. Such notices shall be issued to the owner or person responsible for such violations. In order to protect the public from an immediate and significant threat to its safety, health, and welfare, these notice requirements shall be abrogated and the Code Office shall take such steps as permitted by law to abate such nuisances. All notices required under this Ordinance shall:
    - (1) Be in writing.
    - (2) Include a description of the real estate sufficient for identification.
    - (3) Include a correction order allowing a reasonable period of time of not less than 10 days for compliance with the provisions of the Code.
    - (4) Include a statement of the reason or reasons why it is being issued.

- C. Service. Such service shall be deemed to be properly served upon such owner or person if:
- (1) A copy is delivered to him/her personally, or by leaving the notice at the usual place of abode, in the presence of a responsible person.
  - (2) A copy is delivered by certified or registered mail addressed to the owner or person, at the last known address, with a return receipt requested.

## **§02 – 102. Definitions.**

For the purpose of the Ordinance, the following terms, phrases, words, and their clarifications shall have the meaning given herein. When consistent with the context, words used in the present tense shall include the future, words in the plural number shall include the singular number, and words in the singular number shall include the plural number, and the word "shall" is always mandatory and not merely directory.

### **ANIMAL**

Any domestic animal or fowl, any wild animal, or any household pet.

### **DILAPIDATION**

Any structure incapable of being properly repaired.

### **DOMESTIC ANIMAL**

Any animal as hereinafter defined as a household pet; a large or a small animal.

### **FARM**

A business involving the production of crops, trees, horticulture, or livestock in accordance with normal agricultural standards.

### **GARBAGE, RUBBISH, JUNK, NOISE**

Trash, refuse, compost, debris, litter, waste, annoyance, or any unnecessary disturbance serving no useful purpose.

### **GOVERNING BODY**

The Board of Supervisors of Fishing Creek Township, Columbia County, Pennsylvania.

### **HOUSEHOLD PET**

Any dog, cat, or other domestic animal normally and ordinarily kept in or permitted to be at large in a dwelling of its owner.

### **LARGE ANIMAL**

Any domestic animal of the bovine, equine, sheep, camelid or hog family.

### **MOTOR VEHICLE**

Any type of mechanical device propelled by a motor in which persons or property may be transported upon public streets or highways, including trailers or semi-trailers pulled thereby.

**NUISANCE**

The unreasonable, unwarranted, 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/her reasonable rights as a person or of property.

**OCCUPANT**

Any person (including domestic service employees) living and/or sleeping in a dwelling unit or having possession of a space within a building or dwelling.

**OFFENSIVE**

As in disagreeable to the senses.

**OWNER**

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

**PERSON**

Any natural person, firm, partnership, association, corporation, company, or organization of any kind.

**SHELTER**

Placed inside an enclosed structure.

**SMALL ANIMAL**

Any domestic animal such as a rabbit, hare, guinea pig, rat, mouse, or chinchilla, and any domestic fowl such as a chicken, turkey, goose, duck, or pigeon (except homing pigeons).

**TOWNSHIP**

Fishing Creek Township, Columbia County, Pennsylvania.

**WILD ANIMAL**

Any animal, bird, fowl, or reptile not normally or ordinarily domesticated; not normally raised in this area and climate as livestock or for work or breeding purposes; or not capable of being kept as a household pet.

**§02 – 103. Nuisances Declared Illegal.**

1. The following shall constitute illegal nuisances:

A. Storing or accumulating the following:

(1) Garbage or rubbish which constitutes a health hazard.

(2) Junk material including, but not limited to, unused or abandoned machinery, equipment, furniture, or appliances.

(3) Other junk including, but not limited to, any and all forms of waste and refuse of any type of material including scrap metal, automotive parts, crating and used materials, glass, industrial waste, and other salvageable materials.

B. Storing or accumulating three or more junked motor vehicles, or three or more motor vehicles which are unlicensed or inoperable, and which are unsheltered. Said vehicles shall not at any time be in a state of major disassembly, disrepair, or be in the process of being stripped or dismantled. No junked or unlicensed or inoperable vehicles shall be kept on a public highway, road, street, avenue, land, alley, or within the setbacks of any property. Farm equipment used for parts shall be exempt, provided that said equipment shall be stored in a secluded area at least 100 feet from the property lines. A vehicle of any type shall not at any time undergo major overhauls, including body work, in a residential district unless such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

C. Allowing drainage or flow, by pipe or other channel, whether natural or artificial, any foul or other offensive water, or drainage from sinks, bathtubs, wash stands, lavatories, water closets, privies or cesspools of any kind or nature whatsoever, or any other foul and offensive water or offensive drainage of any kind from property along a public highway, road, street, avenue, land, or alley in the Township. Swimming pools and water softeners are exempt.

D. Allowing to drain or flow any water or drainage from within dwellings situate upon property onto a neighbor's property and/or onto or upon any public highway, road, street, avenue, land or alley in the Township. Surface waters pumped from basements are exempt.

E. Maintaining or causing to maintain any dangerous structure including, but not limited to, abandoned or unoccupied buildings or parts of a building, in the state of dilapidation or disrepair, in excess of six months. Buildings where an ongoing fire investigation or unsettled insurance claim exists are exempt.

F. Refusing or failing to cut and destroy ragweed, chicory, thistle, goldenrod, poison ivy, poison oak, sumac, or other similar vegetation, which has grown above the height of 12 inches, or permitting any grass, weeds, or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow above the height of six inches. This pertains to lots of one acre or less in residential districts only and only the portions of any tract in any other district that is within 100 feet of a residential district or is used for a residential dwelling unit.

G. Permitting or allowing any well or cistern to be or remain uncovered, including any manhole or any storm sewer culvert.

H. Pushing, shoveling, or otherwise depositing snow upon the cartway or traveled portion of any public highway, road, street, avenue, land, or alley, which is maintained by the Township or by the Commonwealth of Pennsylvania.

- I. Allowing or permitting any excavation, excess material, or any other obstruction, on or adjoining any public highway, road, street, avenue, land or alley to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective material.
- J. Planting of trees or shrubbery, erecting fences or storage of personal property, including motor vehicles at or adjacent to any public highway, road, street, avenue, land, or alley or driveways, so as to limit clear view at intersections of any of the above.
- K. Raking, depositing, or blowing grass clippings, organic matter, and/or leaves onto any public highway, road, street, avenue, land, or alley which is maintained by the Township or by the Commonwealth of Pennsylvania.
- L. Dead tree branches over a right-of-way or stormwater runoff from agricultural fields onto public roadways.

2. An owner of a structure or property shall be responsible for the extermination of insects, rats, vermin, and other pests in all exterior areas of the premises.

#### **§02 – 104. Unlawful to Keep Noisy Animals.**

- 1. No person shall keep, or permit to be kept, harbor, or otherwise maintain any animal which, without provocation, shall disturb the quiet of any public place or of any neighborhood; provided, however, that a noisy animal shall be defined as one or more animals which makes noise continuously, so as to constitute annoyance to a person of ordinary sensibilities.
- 2. It shall be unlawful for any person to keep hogs, swine, or any wild animal in all residential districts within Fishing Creek Township, except where the same shall be permitted in a park, zoological garden, or similar establishment for public exhibitions.
- 3. Small animals shall be kept confined in quarters no part of which shall be closer than 10 feet from any property line.
- 4. The keeper of every such domestic animal shall confine the same in an enclosure sufficient to prevent such animals from running at large, and such enclosure shall be of a size conducive to good sanitary practices and adequate and sanitary drainage facilities shall be provided.
- 5. Household Pets. It shall be unlawful for any person to keep any household pet, except as provided in this section:
  - A. If any such pet shall be kept in a dwelling owned or occupied by its owner, such owner shall be required to follow such procedures and practices as to the number of pets to be kept there so as to insure that no public nuisance shall be created or maintained and no threat to the health of persons living in the dwelling or elsewhere shall be created.
  - B. If any such pet shall be kept in an enclosure outside such a dwelling, it is the owner's responsibility to ensure such pet(s) do not cause a nuisance to adjoining property owners.

## **§02 – 105. Right to Farm.**

The Board of Supervisors of Fishing Creek Township recognizes and encourages the continuity, development, and viability of agricultural operations within Fishing Creek Township and incorporates Act 113 of 1982, the Right to Farm Law, 3 P.S. § 951, in this Ordinance. In the event an agricultural operation is conducted in accordance with normal agricultural operations, none of it shall be considered as a nuisance under the terms of this Ordinance, so long as the operation does not have an adverse effect on the public health and safety.

## **§02 – 106. Penalty for Violation.**

1. If the owner and/or occupant receiving due notice refuses to comply with the terms herein:

A. Enforcement of this Ordinance shall be an action brought before the magisterial district judge in the same manner for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Persons violating this Ordinance shall be subject to a fine of up to \$600 and imprisonment of up to 90 days in jail, or both. Each day in which a violation continues shall constitute a separate offense.

B. The Board of Supervisors of Fishing Creek Township may direct the removal, repair, or alterations, as the case may be, to be performed by the Township and the cost thereof, with a penalty of 10 percent, including the Township's attorneys' fees, may be collected from the owner, occupant, or person of the premises by an action of assumpsit or may file a municipal claim of lien against such real estate.

C. Fishing Creek Township, by means of a complaint in equity, may compel the owner to do so or seek relief as such Court of law is empowered to afford.

## **§02 – 201. Definitions.**

### **BUSINESS**

Any person, corporation, partnership, or other entity engaged in the buying, selling, storing, transferring, manufacturing, or processing of properties, merchandise, chemicals, fuels, waste products, or any other goods or services for compensation.

### **DANGEROUS INCIDENT**

Any incident which creates a dangerous condition requiring immediate and emergency action in order to prevent injury to persons or damage to property, and necessitates either or both of the following responses:

A. The intervention of the Board of Supervisors of Fishing Creek Township or any of the emergency agencies or services which may service Fishing Creek Township including, but not limited to, fire companies or rescue squads.

- B. The need for cleanup or abatement measures to be performed by Township employees, or the need for any responsive action resulting in expense to the Township.

**HAZARDOUS ACCIDENT**

Any incident that occurs from storage, transportation, use, manufacturing, processing, or discharging of any substance potentially dangerous to the public health and welfare at large which necessitates either or both of the following responses:

- A. The intervention of the Board of Supervisors of Fishing Creek Township or any of the emergency agencies or services which may assist Fishing Creek Township including, but not limited to, fire companies or rescue squads.
- B. The need for cleanup or abatement measures to be performed by Township employees, or the need for any responsive action resulting in expense to the Township.

**PUBLIC THOROUGHFARE**

Bridges, state highways, county roads, township streets, any navigable waterways or other roadways or watercourses owned by a government unit, or a privately owned street, parking lot, or access way to which the public has access.

**§02 – 202. Cost of Abatement of Hazardous Accidents Incurred by Fishing Creek Township.**

1. The business which owns or leases the premises on which a hazardous accident occurs shall be responsible for all costs that occur as a direct or consequential result of a hazardous accident. In the event a hazardous accident occurs on a public thoroughfare during the transportation or the delivery to an entity other than a business as defined in §02-201 above, the entity who owns or has custody or control of the vehicle or substance involved in the hazardous accident shall be responsible for all costs incurred as a direct or consequential result of such accident. Nothing contained herein shall prevent such business or entity from recovering any costs from a third party whose negligence may have caused such hazardous accident.
2. In the event that any person undertakes, either voluntarily or upon order of an official of the Board of Supervisors of Fishing Creek Township, to clean up or abate the effects of any hazardous accident, the Township may take such action as deemed necessary to supervise or verify the adequacy of the cleanup or abatement. The business or entity described in the preceding subparagraph shall be liable to the Township for all costs incurred as a result of such supervision or verification.
3. For the purposes of this Ordinance, costs of a hazardous accident shall include, but are not limited to, the actual labor costs of Township personnel, including benefits and administrative overhead; costs of consultants or others preparing reports concerning the hazardous accident, costs of equipment operations; costs of materials obtained directly by the Township; costs of any contractual labor and materials for cleanup or abatement; costs of the Township Solicitor or Township Engineer connected with the hazardous accident; costs to replace or repair any damage caused to equipment utilized by the Township or any service agency which responded to the accident.



4. The costs resulting from the hazardous accident shall be paid directly to the Township within 30 days from the date on which the Township issues an invoice or other appropriate demand for such costs. Interest shall accrue on any unpaid invoice at the rate of 1-½ percent per month commencing after the expiration of the thirty-day grace period.

### **§02 – 203. Cost of Emergency Response to Dangerous Incidents.**

1. Any entity which owns or has custody or control of any motor vehicle or other instrumentality that creates a dangerous incident, as defined by this Ordinance, or any entity which owns or leases any real property upon which a dangerous incident takes place, shall be responsible for all costs of any emergency response that arises as a direct or consequential result of such incident. Nothing contained herein shall prevent such entity from recovering any costs from a third party whose negligence may have caused such dangerous incident.

2. In the event that any person undertakes, either voluntarily or upon order of any official of the Board of Supervisors of Fishing Creek Township, to clean up or abate the effects of any dangerous incident, the Township may take such action as deemed necessary to supervise or verify the adequacy of the cleanup or abatement. The entity described in the preceding subparagraph shall be liable to the Township for all costs incurred as a result of such supervision or verification.

3. For the purpose of this Ordinance, costs of a dangerous incident shall include, but are not limited to, the actual labor costs of Township personnel, including benefits and administrative overhead; costs of consultants or others preparing reports concerning the dangerous incident, costs of equipment operations; costs of materials obtained directly by the Township; costs of any contractual labor and materials for cleanup or abatement; costs of the Township Solicitor or Township Engineer connected with the dangerous incident; costs to replace or repair any damage caused to equipment utilized by the Township or any service agency which responded to the incident.

4. The costs resulting from the dangerous incident shall be paid directly to the Township within 30 days from the date on which the Township issues an invoice or other appropriate demand for such costs. Interest shall accrue on any unpaid invoice at the rate of 1-½ percent per month commencing after the expiration of the thirty-day grace period.

This Ordinance shall not repeal or supersede the provisions of Fishing Creek Township Ordinance 01-1988.

Effective Date: This Ordinance shall become effective following its adoption by the Board of Supervisors.



SO ORDAINED AND ENACTED ON THIS 9TH DAY OF MARCH, 2022.

FISHING CREEK TOWNSHIP:

*[Signature]*

James L. Kline

Jerry R. Bessler

ATTEST:

Carole Kindt

SECRETARY

(SEAL)