

Chapter 10

Health and Safety

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Part 1**Nuisances****§10-101. Definitions.**

For the purpose of this Part the following term, 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.

Board of Supervisors - the Board of Supervisors of Old Lycoming Township, Lycoming County, Pennsylvania.

Garbage - the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food. [Ord. 231]

Nuisance - the unreasonable, unwarrantable, or unlawful use of 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.

Owner - a person owning, leasing, occupying or having charge of any premise within the Township.

Person - any natural person, firm, partnership, association, corporation, company, club, copartnership, society, or any organization of any kind.

Rubbish - combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials. [Ord. 231]

Township - the Township of Old Lycoming, Lycoming County, Pennsylvania.

Vegetation - any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.

(Ord. 132, 9/13/1988, §1; as amended by Ord. 231, 10/14/2008)

§10-102. Nuisances Declared Illegal.

Nuisances, including, but not limited to, the following, are hereby declared to be illegal:

A. Storing or accumulating the following:

(1) Garbage or rubbish.

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

(3) Other junk including, but not limited to, any and all forms of waste and refuse of any type of materials, including scrap metal, glass industrial waste and other salvable materials.

B. Storing or accumulating abandoned or junked motor vehicles.

C. Storing or accumulating more than three antique or collector motor vehicles for restoration which are neither sheltered by a building nor enclosed behind an evergreen or solid fence as permitted by applicable zoning ordinances; or, storing or accumulating in an unorderly fashion three or less antique or collector motor vehicles for restoration.

D. 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, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatever, or any 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.

E. Draining or flowing, or allowing to drain or flow, any water or drainage from within dwelling situate upon property along 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.

F. Burning of garbage, tires, or tar products.

G. 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.

H. Permitting the growth of vegetation beyond the following restrictions: permitting the growth of any grass, weeds, noxious weeds, or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, in excess of a height of 12 inches, or permitting any such grass, weeds, or any vegetation to throw off any unpleasant or noxious odor, or to conceal any rubbish, garbage, trash or any other filthy deposit.

Exception. The provisions of this subsection pertaining to the permissible height of vegetation within the Township shall not apply to any property which is utilized predominantly for agricultural purposes within the Township.

I. Permitting or allowing any well or cistern to be, or remain, uncovered.

J. Interfering with the flow of a stream, creek or other waterway by means of a dam or other construction, unless authorized by law.

K. Removing the embankment of a stream so as to alter the natural flow of the stream unless the required permits have been obtained.

L. 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 same to remain thereon.

M. 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 to a barricade, temporary fence, or other protective

materials.

(*Ord. 132, 9/13/1988, §2*)

§10-103. Written Notice to Violators Required.

1. Whenever a condition constituting a nuisance is permitted or maintained, the Zoning Officer shall cause written notice to be served upon the owner in one of the following manners: [*Ord. 231*]

A. By making personal delivery of the notice to the owner.

B. By mailing a copy of the notice to the last known address of the owner by certified mail.

C. By publishing a copy of the notice in a local newspaper of general circulation within Lycoming County, Pennsylvania, once a week for 3 successive weeks.

2. Such notice shall set forth in what respect each condition constitutes a nuisance, 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 20 days and, thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the provisions of §10-102.F, .I, .L or .M is violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

(*Ord. 132, 9/13/1988, §3; as amended by Ord. 231, 10/14/2008*)

§10-104. Penalty for Violation.

1. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$600 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, or other maximum as established by State law, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. Costs to be collected shall include, but not be limited to, the charge of contractors or subcontractors hired, the salaries, overhead, administrative expenses and court costs of the Township. [*Ord. 231*]

2. The Zoning Officer may direct the removal, repair or alterations, as the case may be, to be done by the Township and to certify the costs thereof to the Township Solicitor, the cost of such removal, repairs or alterations shall be a lien upon such premises from the time of such removal, cutting, repairs and alterations which data shall be determined by the certificate of the person doing such work, and filed with the Township Secretary. [*Ord. 231*]

3. The Township, by means of a complaint in equity, may compel the owner of the premises to comply with the terms of any notice of violations, or seek any such other

relief as any such court of competent jurisdiction is empowered to afford.

(*Ord. 132*, 9/13/1988, §4; as amended by *Ord. 182*, 7/9/1996, §2.M; and by *Ord. 231*, 10/14/2008)

Part 2**Noise Nuisances****§10-201. Unnecessary Noises a Nuisance.**

The making of any noise which either reasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, within the limits of the Township may be declared to be a public nuisance. Enumeration of the particular offenses hereinafter particularly defined shall not be construed as limiting the generality of the Section or limiting the offenses hereunder to particular offenses hereinafter enumerated.

(*Ord. 194, 10/13/1998, §I; as amended by Ord. 231, 10/14/2008*)

§10-202. Squealing of Tires.

It shall be unlawful for any person operating any vehicle in the Township to cause the tires of his vehicle to squeal and thereby cause noise and disturbance to the peace of the community and the same is hereby declared to be a nuisance. The squealing of tires in an emergency situation is hereby excepted.

(*Ord. 194, 10/13/1998, §II*)

§10-203. Barking Dogs.

It shall be unlawful for the owner or one who has the custody or control, or keeper of any dog to allow a dog to bark in such a manner, and with such frequency, so as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others and the same is hereby declared to be a nuisance.

(*Ord. 194, 10/13/1998, §III*)

§10-204. Creation of Dust.

It shall be unlawful for any person to cause to be created amounts of dust so as to be a threat to the health, safety and welfare of others and/or to cause damage to private or public property, and the same is declared a nuisance.

(*Ord. 194, 10/13/1998, §IV; as amended by Ord. 231, 10/14/2008*)

§10-205. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, or other maximum as established by State law, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 194, 10/13/1998, §V; as amended by Ord. 231, 10/14/2008*)

Part 3**Control and Prohibition of Synthetic Cannabis and Other Synthetic Drugs****§10-301. Definitions.**

The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Synthetic cannabis—includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of cannabis including, but not limited to, synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073, JWH-200, HU-210, CP-47, 497, CP 55, 490 and 212-2.

Methylenedioxypropylamphetamine (MDPV)—is a psychoactive drug with stimulant properties which acts as a norepinephrine-dopamine reuptake inhibitor (NDRI). Reportedly, it has been sold since around 2004 as a research chemical. It is also known as MDPK, Magic, Super Coke and PV. In 2010 it was reportedly sold as a legal drug alternative and marketed in the United States as “bath salts” (under such names as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanella Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove and White Dove).

Deliver or delivery—actual, constructive or attempted transfer of possession of synthetic cannabis and synthetic drugs, with or without consideration, whether or not there is an agency relationship.

Knowledge—knows, acts knowingly or with knowledge:

(1) The nature or attendant circumstances of his/her conduct, described by the Section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.

(2) The results of his/her conduct, described by the Section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

(3) Knowledge may be inferred from the surrounding circumstances.

Manufacture—the production, preparation, propagation, compounding, conversion or processing of synthetic cannabis or synthetic drugs, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or synthetic drugs or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis or synthetic drugs as an incident to lawful research, teaching or chemical analysis and not for sale.

Person—any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

Possession—possession may be either actual or constructive:

(1) Actual possession means exercising physical dominion.

(2) Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis, synthetic drug or drug paraphernalia.

Produce or production—manufacture, creation, planting, cultivating, tending or harvesting.

(Ord. 256, 5/10/2011)

§10-302. Unlawful Activity.

1. It is unlawful for any person(s), as defined above, knowingly, or under circumstances where one reasonably should know to sell, lend, rent, lease, give, exchange, or otherwise distribute to any persons or corporation any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Cannabicyclohexanol, CP 55, 490, 212-2, HU-210 or Methylenedioxypropylvalerone and marketed as products known as but not limited to, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanella Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove and White Dove, Spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts, as well as any synthetic cannabinoids.

2. It is unlawful for any person(s), as defined above, knowingly, or under any circumstances where one reasonably should know, to display for sale or possess with intent to distribute any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Cannabicyclohexanol, CP 55, 490, 212-2 or Methylenedioxypropylvalerone and marketed as products known as, but not limited to, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts as well as any synthetic cannabinoids.

3. It is unlawful for any person(s), as defined above, or use, or to possess with intent to use, ingest, inhale, or otherwise introduce into the human body any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Cannabicyclohexanol, CP 55, 490, 212-2 or Methylenedioxypropylvalerone and marketed as products known as, but not limited to, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, Spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts as well as any synthetic cannabinoids.

4. These above described activities are declared unlawful because the improper use of and/or ingestion of the product causes unpredictable, uncontrollable and profound effects on humans and places those who ingest it and those around them at grave risk of physical harm.

(Ord. 256, 5/10/2011)

§10-303. Penalties/Enforcement.

1. *Violation.* A violation of this Part shall be prosecuted through the filing of criminal summary offense charge in the appropriate court.

2. *Penalty.* Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than \$100 and no more than \$600 and/or

undergo imprisonment for not more than 30 days.

3. *Administrative Fee.* In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee to the law enforcement agency for testing of the substance(s) collected.

4. *Forfeiture.* Any items which may be seized or forfeited pursuant to statutes or guidelines for the Commonwealth of Pennsylvania, may be forfeited in the same manner as described therein for a violation of this Section.

(*Ord. 256, 5/10/2011*)

