

ADDENDUM TO ORDINANCE NO. 2000-1

ORDINANCE 2000-1 IS HEREBY AMENDED TO ADD THE PUBLIC SAFETY AND CONDUCT ORDINANCE INCORPORATING SECTIONS 1 THROUGH 6, AND SECTIONS A THROUGH M ARE HEREBY APPROPRIATELY NUMBERED. ALSO, INCLUDING ARTICLE 1 OF THE PUBLIC SAFETY AND CONDUCT ORDINANCE ADDING NUMBERS 1 THROUGH 6 AND ARE APPROPRIATELY NUMBERED. ALL OTHER RESPECTS OF ORDINANCE #2000-1 SHALL REMAIN IN FULL FORCE AND EFFECT.

WHEREAS, The Board of Supervisors deems it to be in the best interest 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, s 702, cl. XII, as amended, 53 P.S. s 65712, authorizes townships of the second class to prohibit nuisances, to remove same, and to impose penalties therefore.

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 purpose 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 the words in the singular number include the plural number, and the word "shall" is always mandatory and merely directory.

(1) "Township" is the Township of West Mahanoy, Schuylkill County, Pennsylvania.

(2) "Board of Supervisors" is the Board of Supervisors of West Mahanoy Township", Schuylkill 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 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) 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 material, including scrap metal, glass, industrial waste and other salvage materials.

(B) Storing or accumulating abandoned or junked motor vehicles.

© Storing or accumulating more than three (3) antiques or collector motor vehicles for restoration neither sheltered by a building nor enclosed behind an evergreen or solid fence of a minimum height of eight (8') feet; or storing or accumulating in an unorderly fashion three or less antique or collector motor vehicles for restoration.

(D) 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; 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 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.

(F) Burning of garbage, sludge, 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) Refusing or failing to cut and destroy ragweed, chicory, thistle, golden rod, poison ivy, poison oak, sumac, or other similar vegetation which has grown above the height of twelve (12) inches.

(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 dam

construction or otherwise.

(K) The prohibiting of the use of river dredge sludge or any type of sludge in any manner.

(L) Removing the embankment of a stream so as to alter the natural flow of the stream.

(M) Pushing, shoveling, or otherwise depositing snow upon the cartway or traveled portion of any public highway, road, or street which is maintained by this Township or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.

(N) 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 know 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 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(F), (I), (L), or (M), 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 (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 may file a municipal claim or lien therefore against such real estate.

(3) 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.

PUBLIC SAFETY AND CONDUCT
ARTICLE I
NUISANCES

1. DEFINITIONS. The term "Nuisance" is defined to mean any condition or use of premises or of building exteriors which endanger the safety of others and/or is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the existence, keeping, or maintenance upon private property of any of the following:

- A. Lumber, junk, trash, garbage, rubbish, or debris;
- B. Abandoned, discarded, or unused objects or equipment such as automobiles, appliances, or containers;
- C. Dilapidated buildings or structures.

2. DUTY OF THE MAINTENANCE OF PRIVATE PROPERTY. No person owning, leasing, occupying, or having charge of any premises shall maintain or keep or allow to exist any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located or in a manner endangering the safety of others.

3. EXTERIOR STORAGE OF NON-OPERATING VEHICLES PROHIBITED. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded, or otherwise non-operating motor vehicle to remain on such property longer than ten days; and no person shall

leave any such vehicle on any property within the Township for a longer time than ten days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property.

4. NUISANCES TO BE ABATED FOLLOWING NOTICE. It shall be the duty of any person creating a nuisance or responsible for the creation of a nuisance, or any owner of land upon which a nuisance, or any owner of land upon which a nuisance exists to remove such a nuisance, including, but not limited to, a dangerous structure, upon notice by the Township to do so.

5. PENALTY FOR FAILURE TO REMOVE NUISANCE WITHIN THE LIMIT.
A person having the duty to remove a nuisance under the provisions of this ordinance shall, upon failure to do so within a reasonable time after notice has been given by the Township, be liable to the Township for the costs of the removal of such nuisance, together with a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, and in default of payment of such fine and s/costs, to imprisonment for not more than thirty (30) days. Provided: each day's continuance of a violation of this ordinance shall constitute a separate offense.

6. ENFORCEMENT. Sole responsibility for the enforcement of the "Nuisance Ordinance" of the Township of West Mahanoy shall lie with the West Mahanoy Township Police Department which shall initiate all prosecutions for violation of said Ordinance.

SECTION 5. SEVERABILITY. If any section, 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 18 day of June, 2002 in lawful session duly assembled.

Township of West Mahanoy,

By: *Regina S. Hurty*
Chairman
Board of Supervisors

ATTEST:

Michael S. Michalk
Secretary

ORDINANCE NO. 2000-1

**TOWNSHIP OF WEST MAHANoy
SCHUYLKILL COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE TOWNSHIP OF WEST MAHANoy, SCHUYLKILL COUNTY, PENNSYLVANIA, AMENDING ORDINANCE 1992-6 WHICH REGULATES OR PROHIBITS THE DUMPING OR OTHERWISE DEPOSITING OF ASHES, GARBAGE, RUBBISH AND OTHER REFUSE MATERIALS WITHIN THE TOWNSHIP. THIS AMENDMENT WILL IN ADDITION REGULATE THE APPLICATION OF BIO-SOLIDS WITHIN THE TOWNSHIP. BY IMPOSING A TIPPING FEE FOR EACH TON OF BIO-SOLID MATERIAL APPLIED TO LANDS WITHIN THE TOWNSHIP SO AS TO PROVIDE ADEQUATE FUNDING TO PERFORM LABORATORY TESTING OF EACH TRUCK-LOAD OF BIO-SOLID MATERIAL WHICH IS TO BE APPLIED WITHIN THE TOWNSHIP TO INSURE COMPLIANCE WITH TOWNSHIP ORDINANCE 1992-6 AND WITH THE REGULATIONS OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION. THEREBY PROTECTING THE HEALTH, SAFETY, AND GENERAL WELFARE OF ALL TOWNSHIP RESIDENTS.

ORDINANCE 1992-6 IS HEREBY AMENDED TO ADD AS SECTION XVII THE PROVISIONS HEREINAFTER SET OUT. SECTIONS A,B,C, ARE HEREBY APPROPRIATELY NUMBERED.

WHEREAS, the Supervisors of West Mahanoy Township have determined that in order to protect the health and welfare of residents of West Mahanoy Township, to preserve the surface waters and aquifers, and to preserve the environment, it is necessary and appropriate to test each truckload of bio-solid material which is applied within the Township to determine if certain specified metals, chemicals, pathogens, and radiologicals are present; the levels of said materials present, and if they exceed the levels permitted under the applicable laws and regulations; and

WHEREAS, the Supervisors have determined that a tipping fee of \$60.00 per ton is necessary to cover costs of testing each truck carrying bio-solids. The Department of Environmental Protection can provide said testing at a cost of \$130.00. The total cost per test is \$1326.00. In addition, the Township would have to provide an employee or agent to take samples of each truck. The Township has concluded that the sum \$1,326.00 per test, is a

reasonable estimate of the Township's cost. The trucks delivering bio solids typically carry 23 tons of material which results in the pro rata cost per ton for testing to be \$57.65 per ton which, together with administrative costs, justifies a \$60.00 per ton tipping fee.

NOW, THEREFORE,

BE IT ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF WEST MAHANoy TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

Section XV11 - A Tipping fee imposed

On and after the passage of this Ordinance, there is hereby imposed a sixty (\$60.00) dollars per ton tipping fee for each ton of bio solids applied upon any land within West Mahanoy Township pursuant to this Ordinance.

Section XV11 - B Payment of Fees

Such payments shall be made on the 15th day of the month for all material applied during the preceding month and the payment shall be accompanied by a true and correct statement, identifying the truck by license number, the date of delivery, the weight of the truck when empty and the weight of the truck loaded with a weigh slip, from a legally licensed truck scale.

Section XV11 - C Validity and Repealer

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 a court of competent jurisdiction, such decision of the court shall not affect, impair, or invalidate any of 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.

The provisions of any prior Ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

ENACTED AND ORDAINED this 16 day of August, 2000 by the Board of Supervisors of West Mahanoy Township.

By:

THE BOARD OF SUPERVISORS OF WEST MAHANAY TOWNSHIP

Date: August 16, 2000

William O'Donnell
William O'Donnell, Chairman

Attest:

Regina Kurtz
Regina Kurtz, Vice-Chairperson

MELISSA KURTZ
Secretary

Evelyn Andrews
Evelyn Andrews, Supervisor