

Chapter 10

Health and Safety

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Part 1**Dangerous Structures****§10-101. Dangerous or Dilapidated Buildings or Structures Defined.**

All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings or structures:

A. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to the life, safety, morals, or the general health and welfare of the occupants or the people of the Township.

B. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause accidents, sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein as well as other citizens of the Township.

C. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property.

D. Those which because of their general condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Township.

(*Ord. 22, 9/8/1988, §1*)

§10-102. Dangerous Buildings or Structures as Nuisances.

All dangerous buildings or structures within the terms of §10-101 of this Part are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinabove and hereinafter provided.

(*Ord. 22, 9/8/1988, §2*)

§10-103. Investigation Procedures.

Whenever it shall be reported or come to the attention of any Township official or police officer that any building or structure, completed or in the process of construction, or any portion thereof, is in a dangerous condition, such person having knowledge thereof shall report same to the Board of Supervisors, and the Board shall immediately cause an investigation and examination to be made of such building or structure. Such investigation and examination shall be made by the Township Zoning Officer and at least one member of the Board of Supervisors. The Board of Supervisors may engage the services of a housing inspector, engineer or persons competent in the building construction industry, at cost to the owner of the building or structure if it is deemed dangerous, to assist in making an investigation or examination of any building or structure as they deem necessary. If such investigation or examination indicates such building or structure is dangerous in accordance with the standards of §10-101 of this Part, a written report of such investigation shall be submitted to the Board of Supervisors, specifying the exact condition of such building or structure and setting forth whether or in what respect the structure is dangerous and whether the structure is capable of being properly repaired or whether it shall be removed as a dangerous

structure.

(*Ord. 22, 9/8/1988, §3*)

§10-104. Hearing Procedures.

The Board of Supervisors shall:

A. Upon receipt of a report in accordance with §10-103 of this Part, give written notice to the owner, occupant, mortgages, lessee, agent and all other persons having an interest in said building as shown by land records of the Recorder of Deeds of Lackawanna County, at the address set forth in such records, to appear before the Board on the date specified in the notice to show just cause why the building or structure reported to be a dangerous building or structure should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the notice provided for herein in §10-106.3. Written notice shall be by registered mail with a copy by regular mail delivery, and if mail is refused or unclaimed notice shall be posted on a public part of the building or structure, at least 7 days before date of the hearing.

B. Hold a public hearing and hear such testimony as the owner, occupant, mortgagee, lessee or any other person having an interest in said building, shall offer relative to dangerous building or structure. The Township, or its agent may also offer testimony at the hearing.

C. Make written findings of fact from the testimony offered pursuant to paragraph .B as to whether or not the building or structure in question is a dangerous building or structure within the terms of §10-101 hereof.

D. Issue an order based upon findings of fact made pursuant to paragraph .C of this Section demanding the owner, occupant, mortgagee, lessee or any other person having an interest in said building or structure to repair, vacate or demolish any building or structure found to be a dangerous building or structure within the terms of this Part.

(*Ord. 22, 9/8/1988, §4*)

§10-105. Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the Board of Supervisors in ordering repair, vacation or demolition:

A. If the dangerous or dilapidated building or structure can be repaired as determined by an examination as provided in §10-103, so that it no longer exists in violation of the terms of this Part, it shall be ordered repaired within the time period as specified in §10-106.

B. If the dangerous or dilapidated building or structure is in such condition as to make it dangerous to the health, morals, safety or general welfare of the occupants, it shall be ordered to be vacated.

C. In any case where a dangerous or dilapidated building or structure cannot be reasonably repaired as determined by an examination as provided in §10-103, it shall be demolished. In cases where a dangerous or dilapidated building or structure is a fire hazard existing or erected in violation of the terms of this Part or any statute of the Commonwealth of Pennsylvania, it shall be demolished in

such a manner as to insure a remaining safe condition.
(*Ord. 22, 9/8/1988, §5*)

§10-106. Enforcement Procedures.

1. If any structure is deemed to be a dangerous building or structure within the standards set forth in §10-101 of this Part, the Board of Supervisors shall forthwith cause written notice to be served upon the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the Recorder of Deeds of Lackawanna County, of any such dangerous building or structure.

2. The notice required by this Section shall be served personally upon the owner of a dangerous building if the owner resides in the Township, or personally upon his agent if such agent resides within the Township. If personal service as required herein cannot be obtained, or if the owner resides outside the Township, such notice shall be sent by registered mail with a copy by regular mail delivery to the last known address as shown by the records of Lackawanna County.

3. The notice shall identify the building or structure deemed dangerous and contain a statement of the particulars which made this building or structure dangerous building or structure and an order requiring the same to be put in such condition as to comply with the terms of the order of this Part, provided in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure in lieu of making the repairs thereto within the time limits provided.

4. Such notice shall require any person notified to repair, vacate or demolish any building or structure to commence the work or actions, required to secure the structure from further deterioration from the weather and to secure and prevent access to the structure and any dangerous conditions or dangerous areas on the property by Township residents or the general public within 10 days of such notice and to complete such work or acts within 30 days thereof.

5. Such notice shall also require any person notified to repair, vacate or demolish any building to commence and complete the work or acts required by the notice according to the time schedule approved by the Township Board of Supervisors.

6. The Board of Supervisors shall cause to be placed on all dangerous building or structures, a notice reading substantially as follows:

“This building has been found to be a dangerous building or structure by the Board of Supervisors of the Township. This notice is to remain on this building or structure until it is repaired, vacated or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee or agent of this building. It is unlawful to remove this notice until compliance is made under the terms contained in the notice given to the above-named party.”

(*Ord. 22, 9/8/1988, §6*)

§10-107. Penalties.

1. The owner, occupant, mortgagee, lessee or any other person who shall fail to comply with any notice or order to repair, vacate or demolish any such dangerous building given by any person authorized by this Part, or any regulation of order issued thereunder, 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, 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. 41*]

2. Any person removing the notice provided for in §10-106.5 hereof, shall upon conviction before the magisterial district judge, be subject to a fine not exceeding \$50 and costs for each offense. [*Ord. 41*]

3. If the owner, occupant, mortgagee, lessee or any other person having an interest in said building or structure as shown by the records of the Recorder of Deeds in the County of Lackawanna fails to comply with any notice or order to repair, vacate or demolish any dangerous building or structure within 30 days, the Board of Supervisors is empowered to cause such building or structure to be repaired, vacated or demolished by the Township and to cause the cost of such repair, vacation or demolition, together with a penalty of 10 percent to be charged against the land on which the building existed as a municipal lien, or to recover such costs in a suit at law against the owner or other such persons having an interest in the building or structure, Provided, the recovery of such costs and expense, together with the penalty, may be in addition to the penalty imposed in subsections .1 and .2 of this Section.

(*Ord. 22, 9/8/1988, §7; as amended by Ord. 41, 11/10/2011*)

§10-108. Emergency Cases.

In cases wherein it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a dangerous building or structure as defined herein, the Board shall cause the immediate repair, vacation or demolition of such dangerous building or structure. The costs of such emergency repair, vacation or demolition of such dangerous building or structure shall be collected in the same manner as provided for in §10-107.3.

(*Ord. 22, 9/8/1988, §8*)

Part 2**Noise****§10-201. Title.**

This Part shall be known as the “Thornhurst Township Noise Ordinance.”
(*Ord. 38, 3/10/2005, §1*)

§10-202. Authority.

This Part is enacted pursuant to §1527 of the Second Class Township Code, 53 P.S. §66527.
(*Ord. 38, 3/10/2005, §2*)

§10-203. Purpose.

The purpose of this Part is to ensure that public health, safety and welfare shall not be abridged by the making and creating of noise pollution or of public nuisances from disturbing, excessive or offensive noises in the Township. The residents of the Township recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors and that each person in the community is entitled to live in an environment in which the level of impulsive and amplified noise is minimized for the community good. It is the purpose and scope of this Part to provide regulations defining and regulating excessive noise in the Township. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of Thornhurst Township.

(*Ord. 38, 3/10/2005, §3*)

§10-204. Legislative Findings.

The Board of Supervisors of Thornhurst Township finds that failure of the individuals, businesses, industries, persons maintaining animals, social gatherings and other activities to regulate the noise emanating from their premises constitutes a violation of the peace and enjoyment of the residents of the Township and a public nuisance. Specifically, such noise emanating from home occupations, businesses, industries, sound amplification equipment, radios, electronic sound recording equipment, vehicles, persons maintaining animals, social gatherings, and other activities:

- A. Creates a nuisance in that residents are deprived of the enjoyment of their homes, disturbed in their sleep, and otherwise prevented from the quiet enjoyment of their residential premises.
- B. Adversely affects the property values of residences in the Township.
- C. Adversely affects the image of the Township in the community at large by reflecting negatively on the quality of life in the Township.

(*Ord. 38, 3/10/2005, §4*)

§10-205. Definitions.

The following words and phrases, when used in this Part, shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section:

Excessive noise—excessive noise is that sound which is (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property; (2) annoying to a person of normal sensitivity and (3) when measured at or beyond the boundaries of the lot on which such activities take place, to exceed reasonable noise levels for this community.

Person—includes any individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.

Vehicle—any device, or combination of devices, used or capable of being used for transporting persons or property. Vehicles include, but are not limited to, automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, racers, farms machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

(Ord. 38, 3/10/2005, §5)

§10-206. Noise Limits.

The following limits are established for noise in the Township:

A. *General Standards.* No person shall create or allow the creation of any excessive noise or cause to be operated any source of excessive noise on property owned, leased, occupied, or otherwise controlled by such person.

B. *Specific Acts.* The following acts, among others, are deemed to be in violation of this Part, but such enumeration shall not be deemed exclusive:

(1) *Animals.* Owning, possessing, controlling or harboring any animal or fowl which barks, bays, cries, squeaks, or makes other such noises continuously or intermittently for an extended period which annoys or disturbs a person of normal sensitivity.

(2) *Radios, Phonographs, Television Sets, Etc.* Using, operating or permitting the playing, use or operation of any radio receiving set, television set, musical instrument, phonograph, tape player, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room or vehicle in which such machine or device is being operated in such matter as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

(3) *Loud Speakers, Amplifiers for Advertising.* Using, operating or permitting the playing, use or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure except in the course of legitimate business activity or auction sales.

(4) *Yelling, Shouting, Etc.* Yelling, shouting, hooting, whistling or singing

on the public streets so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) *Exhausts*. The discharge onto open air of the exhaust of any stationary internal combustion engine, or motor vehicle except through a muffler or other device which effectively prevent loud or explosive noises therefrom.

(Ord. 38, 3/10/2005, §6)

§10-207. Exemption.

Noise emitted from the following sources shall be exempt from the noise standards specified herein:

A. All safety signals and warning devices (e.g., intrusion alarms, back-up alarms on trucks); authorized vehicles when responding to emergencies (e.g., police, fire, ambulance sirens); or any other device used to alert persons to an emergency or used during the conduct of emergency work.

B. The provision, repair and maintenance of municipal services or public utilities.

C. Appliances, lawn and garden equipment, chain saws, snow removal equipment, household power tools and vehicles in use between the hours of 7 a.m. and 11 p.m.; provided, such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in proper operating condition.

D. Bells, chimes and carillons used for religious purpose or in conjunction with national celebrations or public holidays.

E. Heavy construction equipment when being used in a specific short term project (such as constructing a building; constructing, repairing or cleaning a road, drilling a well; and other similar short term, specific construction, demolition, or repair projects) in use between the hours of 7 a.m. and 11 p.m.; provided, such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in proper operating condition.

F. All farm-related operations and activities.

G. Any existing legitimate and licensed business, commercial or industrial operation between the hours of 7 a.m. and 9 p.m. provided any appliance, equipment, machinery, vehicles or devices used in such operation are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in proper operating condition.

H. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver; activities conducted in accordance with a special activity permit approved by the Township Supervisors.

(Ord. 38, 3/10/2005, §7)

§10-208. Special Waivers.

A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons during emergency circumstances, to permit reasonable time to effect repairs and/or adjustments to equipment, appliances,

instruments and other sound-emitting devices which, when in use, exceed reasonable noise limits; provided, that the use of such devices shall be essential to preserve and protect health and safety or to comply with other lawful rules, regulations and ordinances.

(*Ord. 38, 3/10/2005, §8*)

§10-209. Enforcement Officers.

This Part may be enforced by any member of the Township Supervisors, Township Code Enforcement Officer, police officer or anyone duly authorized and appointed by the Supervisors.

(*Ord. 38, 3/10/2005, §9*)

§10-210. Enforcement Procedures.

The following procedures and penalties are prescribed for enforcement of this Part:

A. *First Offense.* If it is determined by the Supervisors, Code Enforcement Officer, a police officer or other designated Township official that noise is occurring in violation of this Part, that person shall issue a written warning to the person responsible. Any such warning shall be in effect for 90 days.

B. *Second and Subsequent Offenses.* If it is determined by the appropriate Township official that a noise level is in violation of this Part shall have been caused or permitted by any person within 90 days after the issuance of a warning for a first offense, the Township official shall issue a citation to such person causing or permitting said noise level, or both, and prosecute the same before the magisterial district judge. [*Ord. 41*]

C. *Injunctions.* In addition, the Supervisors may file legal or equitable actions in any proper court in the name of the Township to abate or enjoin violations of this Part.

D. *Public Nuisance.* Any emission of noise from any source in violation of this Part or outside the time limitations prescribed herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties herein provided.

E. *Other Remedies.* Nothing in this Part shall be construed to impair any cause of action or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise on such place or manner, or at such levels which may give rise to such cause of action.

(*Ord. 38, 3/10/2005, §10; as amended by Ord. 41, 11/10/2011*)

§10-211. Relationship with Other Restrictions.

The provisions of this Part are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 (Crimes Code) and Title 75 (Vehicle Code), Pennsylvania Consolidated Statutes. If more stringent requirements concerning noise abatement are contained in the other statutes, rules, regulations or ordinances, the more stringent regulations shall apply.

(*Ord. 38, 3/10/2005, §11*)

§10-212. Penalties.

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, 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. 38, 3/10/2005, §12; as amended by Ord. 41, 11/10/2011)

