

Chapter 16

Nuisances

Part 1 General Provisions

- §16-101. Authority
- §16-102. Purpose
- §16-103. State Protected Agricultural Operations
- §16-104. Short Title

Part 2 Responsibility; Nuisances Declared

- §16-201. Responsibility
- §16-202. Nuisances Declared

Part 3 Definitions

- §16-301. Definitions

Part 4 Burning

- §16-401. Prohibition; Extinguishment
- §16-402. Exemptions
- §16-403. Standards Applicable to All Burning
- §16-404. Outdoor Fires
- §16-405. Production; Manufacturing, Salvage, and Reclamation Operations

Part 5 Enforcement

- §16-501. Enforcement Officer
- §16-502. Inspections; Permission
- §16-503. Notice
- §16-504. Service of Notice
- §16-505. Hearing Appearance
- §16-506. Emergency Cases

Part 6 Hearings

- §16-601. Conducting Hearings
- §16-602. Hearing Request
- §16-603. Board Action

- §16-604. Appeal
- §16-605. Fee

Part 7

Violations; Enforcement Remedies; Action to Abate Nuisance

- §16-701. Compliance
- §16-702. Fine; Imprisonment
- §16-703. Other Remedies
- §16-704. Abatement by Township and Recovery of Costs

Part 8

Municipal Liability

- §16-801. Municipal Liability

Part 1**General Provisions****§16-101. Authority.**

This Chapter is ordained and enacted under the authority granted by §§1529 and 1601 of the Second Class Township Code, 53 P.S. §§66529 and 66601.

(Ord. 1-2007, 5/10/2007, §101)

§16-102. Purpose.

The purpose of this Chapter is to regulate the accumulation and storage of junk and/or rubbish; the accumulation and storage of junk and/or unregistered vehicles and equipment; to prohibit the existence of dangerous buildings and structures; and to abate other public nuisances in order to prevent the blight and deterioration of property, to protect property values within the Township and to abate public health hazards, and otherwise protect the general health, safety and welfare of the citizens of Clifton Township.

(Ord. 1-2007, 5/10/2007, §102)

§16-103. State Protected Agricultural Operations.

Nothing in this Chapter is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right to Farm Law, 3 P.S. §951 *et seq.*, as amended; the Pennsylvania Agricultural Area Security Law, 3 P.S. §901 *et seq.*, as amended; and other applicable state statutes.

(Ord. 1-2007, 5/10/2007, §103)

§16-104. Short Title.

This Chapter shall be known and may be cited as the “Clifton Township Nuisance Ordinance.”

(Ord. 1-2007, 5/10/2007, §104)

Part 2**Responsibility; Nuisances Declared****§16-201. Responsibility.**

It shall be the responsibility of the property owner of the premises upon which any public nuisance, as described in this Chapter, is situated and/or occurring, jointly with the owner of any junk, rubbish, structure, building or other item which constitutes such public nuisance, to provide for the removal or abatement of any such public nuisance and the remediation of any environmental problems associated with the activity or property condition which constitutes the public nuisance. Any owner of property upon which a public nuisance is located or taking place, and/or any person who or which owns junk, rubbish, structures or buildings which constitute a public nuisance, and/or any person who or which owns or is engaged in conduct, which constitutes a public nuisance, shall be deemed to be in violation of this Chapter, and shall be subject to the penalties and remedies prescribed herein.

(Ord. 1-2007, 5/10/2007, §105)

§16-202. Nuisances Declared.

The following are hereby declared to be public nuisances and shall be removed, disposed of, discontinued, or corrected as herein provided:

A. *Junk*. Any junk, scrap or salvage not stored in a junkyard, scrap yard, or salvage yard in accord with Chapter 10, Part 1, "Junkyards, Scrap Yards, and Salvage Yards," and Chapter 27, "Zoning."

B. *Vehicles*. The accumulation on any one parcel of land of more than one motor vehicle or portion thereof including, but not limited to, automobiles, trucks, vans, buses, truck trailers, recreation vehicles, and other vehicles intended for highway use which do not bear a current Pennsylvania inspection sticker and are not fit for immediate highway use. This shall not apply to the temporary (not more than 60 days) storage of up to eight vehicles on the property of Township-designated emergency service providers.

C. *Unsanitary or Dangerous Material*. The accumulation of junk, ashes, garbage and/or rubbish which is unsanitary, or otherwise dangerous or detrimental to the health, safety, or general welfare of the occupants of the premises or the public.

D. *Dangerous Structures*. Maintaining or causing to be maintained any dangerous structure in violation of Chapter 4, Part 1, "Dangerous Structures."

E. *Wells; Cisterns*. Permitting or allowing any well, cistern, or similar structure to be, or remain uncovered.

F. *Vegetation; Trees*.

(1) Permitting the growth of any vegetation which presents a public safety hazard by limiting the vision or right-of-way of travelers on any public road, or which has been permitted to grow to conceal any violation of this Chapter. This shall not affect any requirement for screening provided in accord with any

other Clifton Township ordinances.

(2) Permitting the growth of any trees, vegetation or other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, or injurious to the public.

G. *Noise*. Any noise source which due to intensity, frequency, duration, location, lack of shielding or other reason which causes injury, damage, hurt, inconvenience, or discomfort to others in the legitimate use and enjoyment of their rights of person or property. Noise in excess of the greatest maximum sound level at §27-706.B shall also be deemed a public nuisance for purposes of this Part.

H. *Dogs*. Owning, harboring, or keeping any dog that disturbs the peace by barking between the hours of 7 a.m. and 9 p.m. for more than 1 hour for 2 or more consecutive days, and/or between the hours of 9 p.m. and 7 a.m. by barking for more than ½ hour for 2 or more consecutive days.

I. *Light*. Any light source which due to intensity, frequency, duration, location, lack of shielding or other reason causes any direct or sky-reflected glare visible at the property line of the property on which the light source is located; or which causes any safety hazard to any driver on any public or private road. Any light source which violates or exceeds the maximum light emissions at §27-706.G, shall also be deemed a public nuisance for purposes of this Part.

J. *Streets, Sidewalks or Other Public Places*.

(1) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all snow, stones, rubbish, dirt, filth, slops, vegetable matter or other part thrown or placed by any person on or in any street, sidewalk or other public place which in any way may cause any injury to the public.

(2) Placing a vehicle or other obstruction on or along any street of the Township so as to interfere with vehicular or pedestrian traffic, unless it should become necessary to drive or place the vehicle in such position to load or unload materials, merchandise or furniture, and then such vehicle shall only be permitted to remain for such lengths of time as is necessary to load or unload the same.

K. *Drainage*.

(1) 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, swimming pools, privies, or cesspools of any kind or nature whatsoever, 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: or from any property into or upon any adjoining property.

(2) Throwing, spreading or depositing in any watercourse, drainage way, channel or gutter, and permit it to remain there, any stone, soil, vegetation or any other material.

L. *Open Excavations*. 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.

M. *Merchandise and Advertising Matter.* The distribution, throwing upon doorsteps, into doorways, or vestibules, placing upon doorknobs or fences, casting into yards or anywhere else, handbills, advertising and printed matter of any nature whatsoever without prior authorization by the Township and only in accord with all applicable Township requirements.

N. *Burning.* The burning, ignition, incineration, or allowing to burn, ignite, or incinerate, any and all materials, the burning of which shall emit noxious fumes, smoke, ash or other material, or to cause and allow a fire to be maintained, except in strict conformity with this Chapter.

O. *Others.* Any other such action, nonaction, situation or physical object which by its nature is deemed by the Enforcement Officer to constitute a public nuisance under the terms of this Chapter.

(Ord. 1-2007, 5/10/2007, §106)

Part 3**Definitions****§16-301. Definitions.**

1. For the purposes of this Chapter, certain terms and words used herein shall be interpreted as follows:

A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender, and words of feminine gender include masculine gender.

B. The word “includes” or “including” shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of the kind and character.

C. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.

D. The words “shall” and “must” are mandatory words and “may” and “should” are permissive.

E. The words “used” or “occupied” include the words “intended, designed, maintained, or arranged to be used or occupied.”

2. Unless a contrary intention clearly appears, the following words and phrases shall have the meaning given in this Section. All words and terms not defined herein shall be used with a meaning of standard usage.

Abandoned or junked vehicle - includes any vehicle or trailer, not in a good operating and road-worthy condition (see definition), that meets any or all of the following conditions:

- (1) Cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs.
- (2) Cannot be towed, in regards to a trailer designed to be towed.
- (3) Has been demolished beyond repair.
- (4) Has been separated from its axles, engine, body or chassis.
- (5) Includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

Agricultural operation - the use of any parcel of land containing five or more acres for economic gain in the raising of agricultural products or livestock. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production.

Ashes - residue from fire used for cooking and for heating buildings, or from other burning.

Attractive public nuisance - a condition of property which may reasonably be construed to be a source of danger to the persons who may reside or otherwise be on the premises, or who may, by reason of something which may be expected to

attract them, come to the premises.

Building - any structure having a roof supported by fully enclosed exterior weight-bearing walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature, including, but not limited to, dwellings, dwelling units, mobile homes, garages, barns, stables, sheds, plants, factories, warehouses and similar structures.

Burning - any process which involves the use of an open flame or intense heat including, but not limited to, uncontained fires, contained fires, any manufacturing and commercial process involving burning, and incinerators.

Contained fire - any fire contained in a 55-gallon steel drum or fireplace designed for outdoor cooking, or a fireproof container.

Dangerous building - all building or structure which has any or all of the following defects:

(1) 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.

(2) 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.

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

(4) 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.

Dwelling - any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Dwelling unit - any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

Emergency case - a violation which poses an imminent threat to the public health, safety or welfare and which requires immediate action to eliminate such imminent threat.

Enforcement Officer - the individual(s), agency or firm appointed by the Clifton Township Board of Supervisors to enforce the provisions of this Chapter.

Exterminate - to control and eradicate insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

Fire - the phenomenon of rapid self-sustaining chemical reaction (oxidation) usually accompanied by the evolution of light and heat.

Garbage - animal and vegetable wastes resulting from the handling,

preparation, cooking and consumption of food.

Good operating and road-worthy condition - a vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than 60 days shall be considered current for the purposes of this definition.

Junk - any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. "Junk" shall include, but shall not be limited to:

- (1) Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances, furniture, plumbing, heating and other fixtures, and pipe and pipe fittings.
- (2) Used lumber, boxes, crates and pallets.
- (3) Used tires.
- (4) Other worn, deteriorated, or obsolete manufactured goods which are unusable.
- (5) Mobile/manufactured homes that are not in habitable condition.
- (6) Abandoned or junked vehicles.

Junkyard, scrap yard, or salvage yard - a motor vehicle junk or graveyard, and/or any place where more than 5 tons or 5 cubic yards, whichever is lesser, of any combination of machinery or equipment that is unused or unusable for its manufactured intended purpose; used building and construction materials; damaged or worn household and office furniture and furnishings; rags and other used, soiled, or damaged textile fabrics; scrap paper products; bottles and other used glass products; plastics and plastic products; all types of scrap metal; and all other items not usable or not in good repair or not intended to be repaired for reuse are collected, accumulated, stored, disassembled, treated, or processed.

Lot - a designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

Motor vehicle junk or grave yard - the accumulation of more than one motor vehicle or portion of more than one motor vehicle including, but not limited to, automobiles, trucks, vans, buses, truck trailers, recreation vehicles, and other vehicles intended for highway use which do not bear both a current inspection sticker and current registration plate and are not fit for immediate highway use and are situate on any one parcel of land.

Nuisance - any unreasonable, unwarrantable or unlawful course of conduct or use of private or public property which causes or may cause injury, damage, hurt, inconvenience, interference, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.

Occupant - the person owning, leasing, renting, occupying or having charge, care, custody or control of any premises in Clifton Township.

Owner - the person who, alone or jointly or severally with others is the owner of record of the premises as filed with the Lackawanna County Recorder of Deeds. In the case where an owner is represented by an agent including, but not limited to, a manager, executor, executrix, administrator, administratrix, or guardian of the estate of the owner, such person thus representing the actual owner shall be bound to comply with the provisions of this Chapter and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Person - an individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other legal entity.

Property - a piece, parcel, lot or tract of land.

Rubbish - combustible and non combustible waste materials including but not limited to, garbage, junk, residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and similar materials.

Township - the Township of Clifton, Lackawanna County, Pennsylvania.

Uncontained fire - any fire except a contained fire.

Unregistered vehicle - any motor vehicle or trailer that does not display a license plate with a current registration sticker and does not have a valid State safety inspection sticker. This term shall not apply to vehicles (such as licensed antique cars) for which State regulations do not require an inspection sticker. The term also shall not include motor vehicles displaying a license and inspection stickers that have each expired less than 60 days prior to the first inspection and notice under this Part.

Vehicle - any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land, including, but not limited to, automobiles, trucks, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, machinery, trailers, farm machinery and implements, and other wheeled equipment; boats; and aircraft.

Vegetation - any grass, weed, vegetable, crop, shrub, or other plant.

Waste or garbage - any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste. Including solid, liquid, semi-solid or containing gaseous materials resulting from industrial and mining operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the Pennsylvania Department of Environmental Protection as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

(Ord. 1-2007, 5/10/2007)

Part 4**Burning****§16-401. Prohibition; Extinguishment.**

1. *Prohibition.* It is declared a public nuisance and it shall be unlawful for any person to burn, ignite, incinerate, or allow to burn, ignite, or incinerate, any and all materials, the burning of which shall emit noxious fumes, smoke, ash or other material, or to cause and allow a fire to be maintained, except in strict conformity with this Chapter. Any person violating any provision of this Chapter shall be subject to the penalties herein provided.

2. *Extinguishment.* Any fire permitted to burn in an unsafe manner, under adverse weather conditions, unsupervised, or otherwise in violation of this Chapter, or determined unsafe or a nuisance by the Enforcement Officer, an official of the applicable fire company, a Township Supervisor or the Township Emergency Management Coordinator shall be extinguished immediately upon demand by such Officer or official, or may be extinguished as necessary by the Township or any fire company.

(Ord. 1-2007, 5/10/2007, §107)

§16-402. Exemptions.

Nothing herein shall prohibit:

A. *Cooking and Heating.* Any burning conducted wholly within the confines of a permanent structure intended for the habitation of human beings, and said fire or burning is used for cooking purposes or for heating said structure.

B. *Outdoor Cooking.* Any burning, the sole purpose of which is to cook or prepare food, provided that said fire is attended and is confined in a fireplace, cooking grill or other container designed for outdoor cooking.

C. *Firefighting Training.* Any burning conducted solely for the purpose of firefighter and/or rescue personnel training by any fire company recognized by the Board of Supervisors.

(Ord. 1-2007, 5/10/2007, §108)

§16-403. Standards Applicable to All Burning.

The following standards shall apply to all fires, burning, and incineration in Clifton Township:

A. *Prohibited Materials.* All waste products shall be disposed of in accord with Pennsylvania Department of Environmental Protection rules and regulations; and, the burning of any of the following materials shall be prohibited in Clifton Township:

(1) Solid or liquid household waste except for readily combustible wood and paper products.

(2) Animal matter.

- (3) Plastic or styrofoam.
- (4) Any offal, by-products or waste materials generated by any production process.
- (5) Waste oil or petroleum products.
- (6) Tires.
- (7) Any other material the burning of which can produce noxious or hazardous smoke or fumes.

B. *Local, State, and Federal Regulations.* All burning, including, but not limited to, burning associated with any production, manufacturing, salvage or reclamation process, shall be conducted only in accord with all applicable local, State, and Federal regulations including, but not limited to, the Clifton Township Zoning Ordinance [Chapter 27]; the Air Pollution Control Act of the Commonwealth of Pennsylvania, 35 P.S. §4001 *et seq.*, and the provisions thereof, as well as the regulations of the Pennsylvania Department of Environmental Protection, as pertaining to said Act; and the United States Environmental Protection Agency regulations; all of which are incorporated in this Chapter by reference.

C. *Unattended Burning.* No burning, nor any production, manufacturing, reclamation or salvage operation involving fire, burning or incineration, shall be conducted without a responsible adult being present at all times.

D. *Public Property.* No fire shall be set or maintained on any public road or public property except where a designated area has been set aside for this purpose and an appropriate container has been provided to contain such fire.

E. *Endangerment.* No fire shall be set or maintained that may endanger any building or property.

F. *Fire Control Equipment.* When any burning is conducted in accord with this Chapter, the person responsible for said burning shall maintain at the site any and all equipment appropriate and adequate to contain and control the burning being conducted. Such equipment may, for example, include a charged hose, fire extinguisher, Indian tanks, shovels or rakes.

(Ord. 1-2007, 5/10/2007, §109)

§16-404. Outdoor Fires.

In addition to the standards contained in §16-403, the following additional standards shall apply to all outdoor fires:

A. *Burning Ban.* The Township Board of Supervisors shall have the right to institute a ban on all outdoor burning in the Township when such unusual fire risk warrants a ban. Notice of such restriction shall be given by notice in a paper of general circulation and by posting a notice at the Township office, or by giving such other notice as the Township shall deem appropriate.

B. *Prohibition.* No outdoor burning shall be permitted when drought, weather or other conditions present an unusual fire risk or when a ban on burning has been instituted by an agency of the Commonwealth of Pennsylvania.

C. *Setbacks.* No outdoor burning shall be permitted within 30 feet of any building.

D. *Contained Fires for Household Waste.*

(1) The burning of readily combustible household waste not prohibited by §16-403 shall be conducted only in a noncombustible container in such location and of a design to prevent the spreading of the fire.

(2) Any such household waste burned must be generated only upon the premises as part of the normal residential use.

(3) Only one burning container not to exceed 20 cubic feet in volume shall be permitted.

(4) No contained fires shall be permitted to burn or smolder for more than 2 hours duration or at any time between the hours of 9 p.m. and 9 a.m.

E. *Uncontained Fires.*

(1) No uncontained fires shall be allowed to burn or smolder between the hours of 5 p.m. and 5 a.m.

(2) In the event it is necessary to have an uncontained fire at other than the times permitted under this Chapter, special permission must be secured from the Board of Supervisors or the Enforcement Officer, and the applicable fire company shall be notified of the specific time of such fires not less than 24 hours before ignition.

(Ord. 1-2007, 5/10/2007, §110)

§16-405. Production; Manufacturing, Salvage, and Reclamation Operations.

In addition to the standards contained in §16-403 and the other provisions of this Chapter, the following additional standards shall apply to all burning associated with any commercial, production, manufacturing, salvage or reclamation process (hereinafter referred to as “process”):

A. *Enclosed Building.* No open or exterior burning of any raw material, component or other substance associated with any production process shall be permitted; any burning associated with any such process shall be conducted inside a fully enclosed building.

B. *Waste Materials.* No waste materials or by-products shall be burned or incinerated on any property except at a PA DEP approved solid waste disposal facility.

C. *Zoning Regulation.* Any such process shall be permitted only in those areas designated by the Clifton Township Zoning Ordinance [Chapter 27]; and shall fully comply with the applicable standards contained in the Zoning Ordinance [Chapter 27].

(Ord. 1-2007, 5/10/2007, §111)

Part 5**Enforcement****§16-501. Enforcement Officer.**

The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this Chapter. (Ord. 1-2007, 5/10/2007, §112)

§16-502. Inspections; Permission.

The Enforcement Officer, and any other agent so authorized by the Board of Supervisors, may inspect any premises to determine whether any violations of this Chapter exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner or occupant for the same. If after due diligence, the Enforcement Officer is unable to obtain such permission, the Enforcement Officer shall have the authority to conduct the necessary inspection in accord with this Chapter and the applicable laws of the Commonwealth, and if necessary, petition a competent court with jurisdiction for a court order authorizing the inspection. If, upon review of petition, a court orders the inspection, the defendant named in the order shall reimburse the Board of Supervisors for court cost and reasonable attorney fees. The Enforcement Officer may, upon authorization of the Board of Supervisors, consult with the Township Engineer or any other qualified person, in making the determination regarding a violation.

(Ord. 1-2007, 5/10/2007, §113)

§16-503. Notice.

Whenever an inspection discloses that a violation exists, the Enforcement Officer shall, upon authorization by the Board of Supervisors, issue a notice to the owner and/or occupant of the premises. The notice shall:

- A. Be in writing.
- B. Include a statement of the reasons it is being issued.
- C. State a reasonable time to rectify the conditions constituting the violation, and may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter.
- D. Inform the owner that he has a right to a hearing in accord with Part 6.
- E. Inform the owner that should he fail to comply with the order or request a hearing, the Township Supervisors will order the correction of the violation, and in accord with this Chapter, will assess any and all costs, expenses (including, but not limited to, constable, attorney, engineering and consulting fees), and penalties incurred against the land on which the violation is located.

(Ord. 1-2007, 5/10/2007, §114)

§16-504. Service of Notice.

Except in emergency cases, the notice shall be sent by registered mail or by

certificate of mailing, or personally delivered to, the owner, and/or the occupant of the premises. Where the owner is absent from the Township, all notices shall be deemed to be properly served upon the owner if:

A. A copy of the notice is served upon the owner personally.

B. A copy of the notice is sent by registered mail or by certificate of mailing to the last known address of the owner, regardless of receipt, and is posted in a conspicuous place on or about the premises affected by the notice.

C. The owner is served with such notice by any other method authorized under the laws of the Commonwealth.

(Ord. 1-2007, 5/10/2007, §115)

§16-505. Hearing Appearance.

The Enforcement Officer shall appear at all hearings conducted in accord with Part 6 and testify as to the violation.

(Ord. 1-2007, 5/10/2007, §116)

§16-506. Emergency Cases. (See definition in Part 3.)

Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, welfare or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to correct the violation and eliminate the emergency. Notwithstanding the other provisions of this Chapter, such order shall be effective immediately. The costs of such emergency correction shall be collected in the same manner as provided herein for other cases.

(Ord. 1-2007, 5/10/2007, §117)

Part 6**Hearings****§16-601. Conducting Hearings.**

The Board of Supervisors shall conduct hearings in accord with this Part or may appoint three Township residents holding no other Township office to serve as a hearing board with all of the powers established by this Part. All hearings shall be conducted in accord with the Local Agency Law, 2 Pa.C.S.A. §551 *et seq.*

(*Ord. 1-2007, 5/10/2007, §118*)

§16-602. Hearing Request.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter may request and shall be granted a hearing on the matter before the Board; provided, that such person shall file with the Board in writing a request for a hearing setting forth a brief statement of the grounds therefore within 10 days after the day the notice was served in accord with Part 5. Upon receipt of such request, a time and place for such hearing shall be scheduled and advertised in accord with the Pennsylvania Sunshine Act, 65 Pa.C.S.A. §701 *et seq.* At such hearing the person requesting the hearing shall be given an opportunity to be heard and to show cause why the public nuisance(s) described in the notice should not be abated. The Board shall commence the hearing not later than 60 days after the day on which the request was received in the municipal office.

(*Ord. 1-2007, 5/10/2007, §119*)

§16-603. Board Action.

After such hearing the Board shall sustain the notice, modify the standards which are the subject of the notice and attach conditions, or withdraw the notice. If the Board sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Chapter shall automatically become an order if a written request for a hearing is not filed with the Board within 10 days after such notice is served.

(*Ord. 1-2007, 5/10/2007, §120*)

§16-604. Appeal.

Any aggrieved party may appeal the final order to the Court of Common Pleas of Lackawanna County in accordance with the provisions of the Pennsylvania Local Agency Law, 2 Pa.C.S.A. §551 *et seq.*

(*Ord. 1-2007, 5/10/2007, §121*)

§16-605. Fee.

The person requesting the hearing shall pay the fee for such hearing as may be established by resolution of the Board of Supervisors.

(*Ord. 1-2007, 5/10/2007, §122*)

Part 7**Violations; Enforcement Remedies; Action to Abate Nuisance****§16-701. Compliance.**

Failure to comply with any provision of this Chapter, and/or failure to comply with an order to abate a nuisance, shall be violations of this Chapter.

(Ord. 1-2007, 5/10/2007, §123)

§16-702. Fine; Imprisonment.

Any person who has violated or permitted the violation of any provisions of this Chapter shall upon judgment thereof by any magisterial district judge be sentenced to pay a fine of not less than \$100, nor more than \$1,000 per day of violation, together with the costs of suit, and/or shall be committed to the Lackawanna County Prison for a period not exceeding 30 days. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, costs, interest and reasonable attorney fees collected for the violation of this Chapter, shall be paid over to the Township.

(Ord. 1-2007, 5/10/2007, §124)

§16-703. Other Remedies.

In addition to the fines, judgments, and/or imprisonment remedies of §16-702, the Board reserves the right to pursue independent and cumulative remedies at law or equity including a demand for reimbursement of all court costs and reasonable attorney fees.

(Ord. 1-2007, 5/10/2007, §125)

§16-704. Abatement by Township and Recovery of Costs.

In addition, if the owner or person in control of any dangerous premises, or act or condition constituting a public nuisance or violation of this Chapter, fails to respond to a notice of violation directing the removal or abatement of the public nuisance or correction of the violation within the time limit prescribed by the notice, or fails to appeal to the Board of Supervisors, or fails to comply with the determination of the appeal made by the Board of Supervisors, the Enforcement Officer and/or the Board of Supervisors shall be empowered to cause such work of abatement to be commenced and/or completed by the Township and the cost and expense thereof with a penalty of 10 percent, plus expenses, constable, attorney, engineering and consulting fees and interest, shall be collected from the owner of such premises, in the manner provided by law.

(Ord. 1-2007, 5/10/2007, §126)

Part 8**Municipal Liability****§16-801. Municipal Liability.**

Clifton Township, and its agents, officials and representatives, shall not under any circumstances be liable or legally responsible for activities or conditions which constitute a public nuisance under the terms of this Chapter. Any liability or damages resulting from activities or conditions constituting a public nuisance are the sole responsibility of the owner of the property, or the person or persons responsible for said activity or condition. The failure to enforce the terms of this Chapter shall not constitute a cause of action against Clifton Township or its agents, officials or representatives.

(Ord. 1-2007, 5/10/2007, §129)

