

TOWNSHIP OF WEST EARL

Lancaster County, Pennsylvania

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWNSHIP OF WEST EARL TO ADD A NEW CHAPTER 132, PROPERTY MAINTENANCE ENACTING THE WEST EARL TOWNSHIP PROPERTY MAINTENANCE CODE.

BE AND IT IS HEREBY ORDAINED AND ENACTED by Board of Supervisors of the Township of West Earl, Lancaster County, Pennsylvania, as follows:

Section 1. The Code of Ordinances of the Township of West Earl shall be amended by adding a new Chapter 132, Property Maintenance, which shall provide as follows:

**Chapter 132
Property Maintenance**

§132-1. Short Title.

This chapter shall be known and may be cited as the West Earl Township Property Maintenance Code.

§132-2. Adoption of Property Maintenance Code.

A certain document, copies of which have been and are presently on file in the Office of the Secretary of the Township of West Earl, Lancaster County, Pennsylvania, being marked and designated as "International Code Council, Inc., International Property Maintenance Code/2012," be and is adopted as the Property Maintenance Code of the Township of West Earl, creating a code of property maintenance regulations for the protection of public health, safety and welfare as herein provided. Each and all of the regulations of the International Property Maintenance Code/2012, except as provided in §132-3 of this chapter, are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, enumerated in §132-3.

§132-3. Deletions, Additions and Insertions.

Changes from the International Property Maintenance Code/2012 to the West Earl Township Property Maintenance Code are as follows:

A. Section 101.1 shall be amended by inserting “Township of West Earl, Lancaster County, Pennsylvania.”

B. Section 102.3, Application of other codes, shall be deleted.

C. Section 103.5 shall be amended to provide as follows:

103.5. Fees. The fees for activities and services performed by the Code Official in carrying out his responsibilities under this Code shall be established by resolution or ordinance of the Board of Supervisors.

D. Section 106.2, Notice of violation, shall be amended to provide as follows:

106.2. Notice of violation. The Code Official may serve a notice of violation in accordance with Section 107.

E. Section 106.3, Prosecution of Violation, shall be amended to provide as follows:

106.3. Prosecution of Violation. If the Code Official has served a notice of violation and the notice of violation is not complied with within the time specified in such notice, or if the Code Official determines that there is insufficient time to serve a notice of violation or that such notice of violation will have no practical or beneficial effect, the Code Official shall notify the Board of Supervisors of the violation and shall request the Board of Supervisors to authorize institution of enforcement proceedings against the violator and/or authorize the Township Solicitor to institute the appropriate proceedings at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or any order or direction made pursuant thereto. If the Code Official or if any police officer observes a violation of Section 302 or Section 307 of this Code, in addition to the foregoing such Code Official or police officer is hereby empowered to institute summary criminal proceedings against the violator.

F. Section 106.4 shall provide as follows:

106.4. Penalty. Any person who shall violate a provision of this Code; or who shall fail to comply with any of the requirements thereof; or who shall use, maintain or alter a lot, building or structure in violation of any approved plan or directive of the Code Official or of any order, permit or certificate issued under the provisions of this Code; or who shall violate any order of the Code Official; or who shall fail to remedy or who shall negligently or improperly remedy any health hazard; or who shall fail to completely implement a plan

to remedy a health hazard which has been reviewed and approved by the Code Official shall be liable upon summary conviction therefor to fines and penalties of (a) not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) plus all costs of prosecution for a first offense, (b) not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) plus all costs of prosecution for a second offense, and (c) not less than Three Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00) plus all costs of prosecution for a third or subsequent offense, which fines and penalties may be collected as provided by law. All fines and penalties collected for violation of this Code shall be paid over to the Township Treasurer. Each day that a violation continues and each section of this Code which is violated shall be deemed a separate offense. This Code may also be enforced by an action in equity brought in the Lancaster County Court of Common Pleas.

- G. Section 107.1, Notice to person responsible, shall be amended to provide as follows:

107.1. Notice to person responsible. Whenever the Code Official determines there has been a violation of this code or has grounds to believe that a violation has occurred, the Code Official is authorized to give notice in the manner prescribed in Sections 107.2 and 107.3 to be person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

- H. Section 107.3, Method of service, shall be amended to provide as follows:

107.3. Method of Service. Service of said notice shall be made upon the owner or occupant of the said premises in any of the following manners: by delivering the same to such owner or occupant personally or by delivering the same to and leaving it with any adult person in charge of the said premises or by affixing the same in a conspicuous position upon said premises or by sending said notice by certified or registered mail addressed to the owner at the last known address with return receipt requested. Such procedures shall be deemed the equivalent of personal notice.

- I. Section 107.6, Transfer of ownership, shall be amended to add the following at the end of the existing Section:

This Section shall be interpreted to comply with applicable Pennsylvania statutes.

- J. Insert new Sections 107.7 through 107.7.2 which shall provide as follows:

107.7. Notice to Abate Health Hazard or Public Nuisance. It shall be the duty of the Code Official to cause a notice to be served upon the owner or occupant of any premises whenever property is maintained so as to constitute a health hazard or a public nuisance and to require abatement of the health hazard or public nuisance within five (5) business days from the date of service of such notice or such other time period as may be set forth in the notice. Service of such notice shall be as provided in Section 107.3.

107.7.1. Performance of Work Upon Noncompliance with Notice. In the event that the owner or occupant shall refuse or neglect to abate such health hazard or public nuisance within the time period as required by such notice, or in the event that the owner or occupant shall perform action necessary to eliminate the health hazard in a negligent or incomplete fashion, the Code Official may cause such condition to be eradicated and/or removed, or take action necessary to eliminate such health hazard or nuisance of which the owner or occupant has been notified, keeping an account of the expenses of inspecting the premises, service of notice and abating the health hazard and nuisance. All such costs and expenses shall be charged to and paid by the owner or occupant.

107.7.2. Collection of Costs. All costs and expenses the Township incurs in the abatement of such health hazards and public nuisances shall be a lien upon the premises, and whenever a bill therefor remains unpaid after it has been rendered, the Township Solicitor shall file a municipal claim and/or civil action for such costs and expenses, together with a penalty of twenty-five (25%) percent of the costs and expenses, and for allowable attorneys' fees, in the manner provided by law for the collection of municipal claims and/or the filing of civil actions.

K. Section 110.3 shall be amended to provide as follows:

110.3. Failure to Comply. Whenever the owner of a property fails to comply with a demolition order within the time period prescribed, the Code Official shall request the Township Solicitor to institute an action at law or in equity against the property owner to obtain an order authorizing the Code Official to raze and remove such structure or contract for the razing and removal of such structure at the expense of the owner of the property. At the completion of such razing and removal, the Township Solicitor shall file a municipal claim as a lien against the property in the amount of the Township's costs plus a penalty of twenty-five (25%) percent of such costs and for allowable attorneys' fees. The Township Solicitor may also institute any proceedings at law or in equity to provide for the collection of the Township's costs and expenses.

L. Section 110.4 shall be deleted in its entirety.

M. Section 111, Means of Appeal, shall be deleted in its entirety. A new Section 111, Appeals, shall be inserted which shall provide as follows:

111.1. Appeals. An appeal from any decision of the Code Official may be taken to the Board of Supervisors. Such appeal shall be made in writing within five (5) business days after such decision has been made. The appeal shall be verified by an affidavit, shall state the grounds therefor and shall be filed with the Township Secretary. The appeal shall be accompanied by the appeal fee which shall be established by ordinance or resolution of the Board of Supervisors. The appellant or his representative shall have the right to appear and be heard, if such right is requested in the written appeal. The Board of Supervisors shall make a prompt decision on such appeal. In making a decision, the Board of Su-

pervisors may vary or modify any provision of this Code where there are practical difficulties in the way of executing the strict letter of the law so that the spirit of the law shall be observed, public safety secured, and substantial justice done. Such variation or modification shall be the minimum necessary in order to grant relief. The Board of Supervisors shall render a written decision, copies of which shall be provided to the Code Official and the appellant.

- N. Section 112.4 shall be deleted in its entirety.
- O. Section 202, General Definitions, shall be amended by inserting and/or revising the following definitions:

Board of Supervisors: The governing body of the Township.

Police Department: The Township Police Department or any successor Police Department providing police protective services within the Township.

Police Officer: A member of the Police Department.

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. Rubbish shall also include discarded and/or deteriorated building materials; discarded and/or deteriorated electrical and plumbing materials; broken pieces of concrete; discarded, broken, or deteriorated electrical, gas or hand-operated appliances; previously used packing materials; discarded, broken, or deteriorated household goods and furnishing; or any household item located outdoors that is designed for indoor use; as well as parts and pieces of any of the foregoing.

Township: The Township of West Earl, Lancaster County, Pennsylvania.

Vehicle, hazardous: A vehicle, including but not limited to an automobile, bus, van, truck, recreational vehicle or trailer, which:

1. Contains one or more broken windows or one or more missing doors or a missing trunk or hood which allow entry into the vehicle by children or vermin; or
2. Is structurally unstable or supported by blocks, jacks or other devices which may slip or move, presenting a danger to passersby; or
3. Is parked upon property in such a manner as to obstruct the vision of drivers or interfere with the free movement of pedestrians or traffic or create a fire hazard.

- P. Insert a new Section 301.4 which shall provide as follows:

301.4. Interference with Compliance. No person shall take or cause any person to take any action which creates a condition which results in a premises violating any requirement of this Code, including but not limited to the tampering with water service or sewer service or facilities, depositing of rubbish or garbage or any other discarded materials on a premises, removal of fire extinguishers, and blocking exits. Notwithstanding the foregoing, it shall not be a violation of this Code for the supplier of public water service to cease service for non-payment of water or sewer rates or charges in accordance with applicable laws and procedures.

Q. Section 302.4 shall provide as follows:

302.4. Weeds. All premises and exterior property of lots which are within any area of the Township classified as R-1 Low Density Residential District, R-2 Medium Density Residential District, C-1 Neighborhood Commercial District, C-2 General Commercial District, I Industrial District or PE Professional Enterprise District according to the official Zoning Map of the Township and which are not in agricultural production or forested shall be maintained free from weeds or plant growth in excess of six (6) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers and gardens, protected wild flowers and wetlands.

The Board of Supervisors, the Code Official or any officer or employee of the Township designated for this purpose is hereby authorized to give notice, by personal service, by United States mail or by posting the property, to the owner of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of this Code, directing and requiring such owner to remove, trim or cut such grass, weeds or vegetation, so as to conform to the requirements of this Code, within five (5) business days after the issuance of such notice. In case any person shall neglect, fail or refuse to comply with such notice, within five (5) business days after the issuance of such notice, Township authorities may remove, trim or cut such grass, weeds or vegetation, and the cost thereof, together with a penalty of twenty-five (25%) percent of such cost, and allowable attorneys' fees may be collected by the Township from such person in the manner provided by law.

If the Board of Supervisors, the Code Official or any officer or employee of the Township has given notice under this Section in the calendar year and the owner did not comply with the notice within the required five (5) business days, the Township shall not be required to give additional notice to the owner before the Township removes, trims or cuts grass, weeds or vegetation on the property in that same calendar year, and the Township may collect the cost thereof, together with a penalty of twenty-five (25%) percent of such cost, and allowable attorneys' fees from such person in the manner provided by law.

R. Section 302.8 shall be amended to provide as follows:

302.8. Vehicles. Except as provided in other regulations, the parking and storage of motor vehicles, including but not limited to automobiles, buses, vans, trucks, recreational vehicles, and trailers, shall be limited as provided herein.

302.8.1. Licensed and Inspected Vehicles. Vehicles which have a current license and inspection may be stored upon a premises in accordance with the requirements of the Township Zoning Ordinance and other applicable ordinances and regulations unless such vehicles are hazardous vehicles as defined herein.

302.8.2. Unlicensed or Uninspected Vehicles. Vehicles which do not have both a current license and a current inspection may be stored within a completely enclosed structure on any premises. Unlicensed or uninspected vehicles shall not be stored outside of a completely enclosed structure on a premises for more than 30 days. The Code Official and/or the Police Department may order the removal of an unlicensed or uninspected vehicle using the procedure set forth in Section 302.8.3. *Exceptions:* The operator of a motor vehicle towing or repair establishment shall be permitted to store unlicensed or uninspected motor vehicles for a period of not more than ninety (90) days and operators of agricultural operations shall be permitted to store unlicensed or uninspected agricultural vehicles which are part of an active agricultural operation.

302.8.3. Hazardous Vehicles. No person who owns a hazardous vehicle shall park, place, deposit or permit the parking, placement or depositing of the hazardous vehicle on any property. No property owner shall permit any hazardous vehicle to remain on a premises. If any hazardous vehicle is parked or placed upon a premises, the Code Official and/or the Police Department shall notify the owner or occupant of the premises of the duty to remove the hazardous vehicle. The Code Official and/or the Police Department shall post upon the hazardous vehicle in a conspicuous place a notice directing the removal of the hazardous vehicle within five (5) business days. Should the vehicle not be removed, the Code Official and/or the Police Department shall serve a second notice which shall be in writing and shall provide a time limit not to exceed five (5) business days within which the hazardous vehicle has to be removed. Said notice shall be served as provided in Section 107.3 herein and shall additionally be posted upon the hazardous vehicle. If the owner of the premises fails to remove the hazardous vehicle, the Township may take action to abate the health and/or safety hazard resulting from the hazardous vehicle in the manner provided in Sections 107.3.2 and 107.3.3 herein.

S. A new Section 302.10 shall be added which shall provide as follows:

302.10. Used Vehicle Parts and Tires. No person shall place, deposit or permit the placement or depositing of used vehicle parts or tires outside of an enclosed structure on any property.

- T. Section 304.14, Insect Screens, shall be deleted.
- U. Section 308, Rubbish and Garbage, shall be amended by adding new Sections 308.4, Notices of Violation, and 308.5, Enforcement, which shall provide as follows:

308.4. Notices of Violation. The Board of Supervisors, the Code Official or any officer or employee of the Township designated for this purpose is hereby authorized to give notice, by personal service, by United States mail or by posting the property, to the owner of any premises on which there exist accumulations of rubbish or garbage remaining in violation of the provisions of this Code, directing and requiring such owner to remove such accumulations of rubbish or garbage so as to conform to the requirements of this Code, within five (5) business days after the issuance of such notice. In case any person shall neglect, fail or refuse to comply with such notice, within five (5) business days after the issuance of such notice, Township authorities may remove such accumulations of rubbish or garbage, and the cost thereof, together with a penalty of twenty-five (25%) percent of such cost, and allowable attorneys' fees may be collected by the Township from such person in the manner provided by law.

If the Board of Supervisors, the Code Official or any officer or employee of the Township has given notice under this Section in the calendar year and the owner did not comply with the notice within the required five (5) business days, the Township shall not be required to give additional notice to the owner before the Township removes accumulations of rubbish or garbage on the property in that same calendar year, and the Township may collect the cost thereof, together with a penalty of twenty-five (25%) percent of such cost, and allowable attorneys' fees from such person in the manner provided by law.

308.5. Enforcement. The Code Official or any police officer shall be authorized to institute summary criminal proceedings against any person who fails to comply with the requirements of this Section 308 prohibiting accumulations of rubbish or garbage and requiring proper storage and disposal of rubbish and garbage. The failure to maintain exterior premises and property and the interior of a structure free from accumulation of rubbish and garbage and/or the failure of any person to comply with the requirements of Sections 308.2 and 308.3 of this Code is a violation of the provisions of this Code, whether or not the Board of Supervisors, Code Official, or other officer or employee of the Township provides the notice set forth below. Any Police Officer and the Code Official may institute summary enforcement proceedings pursuant to Section 106 of this Code. Such prosecution shall not prevent the Township from also proceeding under the provisions of Section 308.4 to abate nuisance conditions on the Property.

- U. Sections 506, Sanitary Drainage System, and Section 507, Storm Drainage, shall be deleted.
- V. Chapter 6, Mechanical and Electrical Requirements, and Chapter 7, Fire Safety Requirements, shall be deleted.

Section 2. It is the intention of the Board of Supervisors that the requirements of this Chapter shall supplement and shall not repeal any existing regulations. Where this Chapter imposes greater regulations upon the maintenance of structures or land or any other matter governed by this Chapter, the provisions of this Chapter shall control. Where another ordinance, currently in effect or enacted in the future, provides greater regulations on the maintenance of structures or land or any other matter governed by this Chapter, such other ordinance shall control.

Section 3. The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, 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 enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 4. This Ordinance shall take effect and be in force from and after its approval as provided by law.

DULY ORDAINED AND ENACTED this ____ day of _____, 2017, by the Board of Supervisors of the Township of West Earl, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF WEST EARL
Lancaster County, Pennsylvania

Attest: _____
(Assistant) Secretary

By: _____
(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]