MILL VILLAGE BOROUGH
ERIE COUNTY, PENNSYLVANIA

ORDINANCE NO. 2 -2019

AN ORDINANCE OF MILL VILLAGE BOROUGH, REPEALING ORDINANCE NO. 19-1986, GENERALLY KNOWN AS THE NUISANCE ORDINANCE, PROVIDING FOR THE DEFINITION OF PUBLIC NUISANCE, PROVIDING FOR VIOLATIONS OF THE ORDINANCE, PROVIDING FOR A NOTICE OF VIOLATION AND ENFORCEMENT PROCEDURE, PROVIDING FOR METHODS OF APPEAL, AND PROVIDING FOR REPEALER, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, on or about September 25, 1986, the Borough Council of the Mill Village Borough (the "Borough") adopted Ordinance No. 19-1986, colloquially known as the Mill Village Nuisance Ordinance (the "1986 Ordinance"); and

WHEREAS, the 1986 Ordinance currently prohibits the maintenance of public nuisances within the Borough and prescribes enforcement procedures for those individuals who maintain nuisances in violation of the 1986 Ordinance; and

WHEREAS, the Borough Council believes that the 1986 Ordinance is outdated and wishes to repeal Ordinance No. 19 and replace it with a new Ordinance that better serves the Borough's current citizens; and

WHEREAS, the Borough Council wishes to re-define "public nuisance," wishes to modify how violations and enforcement of the "public nuisance" provisions are undertaken, wishes to modify the penalties for public nuisance violators, and wishes to provide methods of appeal for the Borough's citizens; and

WHEREAS, the Borough Council believes that this Ordinance will be beneficial to the Borough and its citizens.

NOW THEREFORE, this 6th day of November, 2019, be it enacted and ordained by the Borough Council of the Mill Village Borough, Erie County, Pennsylvania, as follows:

1. Recitals. The recitals set forth above are incorporate herein as if more fully set forth.

2. Repeal of Ordinance No. 19-1986. The 1986 Ordinance is hereby repealed, in its entirety.

3. Definition of "Public Nuisance." The following uses of property or conditions upon any property shall be determined to be a "public nuisance" and shall be abatable as such under this Ordinance:

a) The physical condition of a property or the use of any premises regarding as a public nuisance at common law.

b) Any physical condition, use or occupancy of any premises or appurtenances considered an attractive nuisance" to children, including, but not limited to, the presence of one (1) abandoned, junked, or visibly damaged vehicle on a property for more than one hundred and eighty (180) days or two (2) or more abandoned, junked, or visibly damaged vehicles on a property for more than sixty (60) days; the presence of abandoned wells, shafts, basements, excavations, and unsafe fences or structure on a property.

c) Any premises which has unsanitary sewage or plumbing facilities.

d) Any premises designated as unsafe for human habitation or use.

e) Any premises which is capable of being a fire hazard or is manifestly unsafe or unsecure as to endanger life, limb, or property.

f) Any premises from which the plumbing, heating, and/or facilities required under the Pennsylvania Construction Code Act, 35 P.S. §7210.101 *et seq.*, as amended from time-to-time, and its regulations , have been removed or from which the same utilities have been disconnected, destroyed, rendered ineffective or the required precautions against trespassers have not been provided.

g) Any premises which is unsanitary, or which has been determined to be a "junk yard" under Ordinance No. 4-2019, or which has an uncontrollable growth of grass or weeds pursuant to regulations adopted under Ordinance No. ____-2019.

h) Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, damaged by fire to the extent to no longer provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises.

i) Any exterior premises that contains uncovered cisterns, wells, or other obvious fracture in the land surface.

j) Loud playing of radios, television sets, amplifiers, and other sound devices so as to be heard by individuals on neighboring properties or from the public street in the R Residential District. Said sound must be a measured sound of five (5) decibels for a period of ten (10) continuous minutes or for a total of ten (10) minutes in any twenty (20) minute period.

k) Operation of all-terrain vehicles, snowmobiles, and/or unlicensed motorized recreational vehicles on any public street or sidewalk or any public grounds, including parks and/or playgrounds.

l) Keeping or harboring any animals, which by continuous barking, howling, other noise, or offensive odor shall annoy or disturb the peace in such a manner as to be offensive to the general public.

4. Violations and Notice of Violation.

a) It shall be unlawful for any person, firm, corporation, partnership, affiliation, association, or other entity to maintain or to permit a public nuisance to occur on any property, premises, location, or other legal structure within the Borough.

b) When the Borough Council determines that there has been a violation of this Ordinance, or has grounds to believe that a violation has occurred, the Borough Council, or their designee, shall cause such notice to be given in the manner prescribed in Section 4(c) of this Ordinance.

c) The notice prescribed in Section 4(b) of this Ordinance shall be in accordance with all of the following:

i. Be in writing.
ii. Include a description of the premises sufficient for identification, if applicable.
iii. Include a statement of the violation(s) and why the notice is being issued.

iv. Include a correction order allowing a ten (10) day period to make repairs and improvements required to correct the public nuisance and to be compliant with this Ordinance.

d) Such notice shall be deemed to be properly served if a copy thereof is:

i. Delivered personally; or
ii. Sent by mail to the last known address.

5. Enforcement, Penalties, and Appeal.

a) Any person, firm, corporation, partnership, affiliation, association, or other legal entity that permits or maintains a public nuisance on any property, premises, location, or other legal structure within the Borough shall, within ten (10) days after receipt of written notice of the public nuisance, remove or abate that public nuisance. If said person or entity fails, neglects, or refuses to abate the nuisance within the time limit, the Borough Council shall have the authority to bring an action before a Magisterial District Justice for the enforcement of said offense and upon conviction, shall be sentenced to pay a fine of not more than $300.00, plus the costs of prosecution and attorney's fees. Each day that a violation of this Ordinance occurs shall constitute a separate offense under this Ordinance.

b) Notwithstanding Section 5(a) above, if any person, firm, corporation, partnership, affiliation, association or other legal entity that permits or maintains a public nuisance on any property, premises, location, or other legal structure within the Borough shall, within ten (10) days after receipt of written notice of the public nuisance fail, neglects, or refuse to abate the nuisance within the time limit, the Borough Council shall have the authority, in person or through its designee, to enter upon the property of the person in default and abate the public nuisance. Thereafter, the Borough Council shall collect the cost and expense of the abatement or removal from the person or entity that created, continued, caused, permitted, or maintain the

nuisance, with an addition ten percent (10%) in the manner provided by law for the collection of municipal claims.

c) This Ordinance shall not be constructed to be the sole means for abatement of nuisances within the Borough, and nothing shall preclude any person from proceeding individually or with other injured persons, to effect the abatement of a private nuisance.

d) The Borough, in the exercise of the power conferred in this Ordinance and by the Borough Code, at 8 Pa.C.S. §1202, may institute proceedings in equity to enforce the provisions of this Ordinance.

e) Any person or entity affected by an action of the Borough under this Ordinance to abate a public nuisance shall have the right to appeal the decision of the Borough to a Magisterial District Justice or the Court of Common Pleas of Erie County, whichever may be applicable.

6. Repealer. Any Ordinances, rules or resolutions or parts of Ordinances in conflict herewith are hereby repealed.

7. Severability. The provisions of this Ordinance are severable. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part therefor not been included herein.

8. Effective Date. This Ordinance shall become effective immediately upon its proper execution by the Borough Mayor.

DULY ENACTED AND ORDAINED this 6th day of November 2019, by the Borough Council of the Mill Village Borough, Erie County, Pennsylvania, in lawful session duly assembled.

ATTEST:

Catherine Wise

Catherine Wise, Secretary

Linda Falconer

Linda Falconer, Vice President

APPROVED

Brian Peters

Brian Peters, Mayor

I certify that the above is a true copy of the Mill Village Borough, Erie County, Pennsylvania, Ordinance No. 2 -2019, adopted by the Mill Village Borough Council on November 6, 2019, and advertised in the Erie Times-News on October 21, 2019.

Catherine Wise

Catherine Wise, Secretary

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