

<p>West Caln Township Board of Supervisors</p> <p>Chester County Pennsylvania</p>	<p><b>ORDINANCE # 2018-03</b></p> <p><b>NUISANCE ORDINANCE</b></p>	
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**AN ORDINANCE AMENDING THE CODES AND ORDINANCES OF WEST CALN TOWNSHIP TO PROVIDE FOR A NEW ORDINANCE, ENTITLED THE “WEST CALN TOWNSHIP NUISANCE ORDINANCE”.**

**WHEREAS**, the Board of Supervisors pursuant to the authority granted by the Second Class Township Code, 53 P.S. §§66527, 66529 and 66533, to adopt ordinances to secure, the welfare and safety of persons or property within the Township, including disturbing the peace with the limits of the Township, to adopt ordinances to prohibit nuisances with the Township, and to require property owners to abate such nuisances and/or remove any nuisance or dangerous structure on public or private grounds, the Board of Supervisors has determined to adopt the ordinance as set forth below; and

**WHEREAS**, it is the intent of the Board of Supervisors that the enforcement authority of such ordinance shall be exercised only when circumstances absolutely warrant such enforcement and shall not be used in a manner that harasses or unduly impinges upon private property rights.

**AND NOW**, this 11<sup>th</sup> day of July, 2018, it is hereby enacted and ordained by the Board of Supervisors of West Caln Township, Chester County, Pennsylvania, as follows:

**Section 1.** A new ordinance entitled the “West Caln Township Nuisance Ordinance” is hereby adopted as follows:

**“WEST CALN TOWNSHIP NUISANCE ORDINANCE”**

<p>West Caln Township Board of Supervisors</p> <p>Chester County Pennsylvania</p>	<p><b>ORDINANCE # 2018-03</b></p> <p><b>NUISANCE ORDINANCE</b></p>	
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**§1-101. Definitions**

The following words, when used in this article, shall have the meanings ascribed to them as in this section:

**MOTOR VEHICLE NUISANCE**

A motor vehicle maintained upon open private grounds for more than 48 hours in the Township by the owner, lessee or occupier of such ground, which vehicle is unable to move under its own power and has physical defects that renders it unsafe to drive. Lack of current valid registration and/or a current valid inspection may also be evidence of the vehicle being determined to be a nuisance but proof of those being lacking is not required for such a determination by the Township.

**NUISANCE**

The carrying on, engaging in, committing or, when in possession, control or responsibility of, or permitting any practice, act, trade, manufacture, business or profession which is injurious or dangerous to the health, safety, comfort or welfare of persons or damaging to the property of others or which prevents the reasonable use or enjoyment of the property of others by reason of, among other things, odor, smoke, dust, gas, noise, dirt, vibration, constant noise or the emission of radioactivity or electromagnetic waves.

**PERSON**

Includes a corporation, partnership, and association, as well as a natural person.

**§1-102. Prohibited acts.**

No person shall cause, create or maintain any nuisance within the Township of West Caln.

<p>West Caln Township Board of Supervisors</p> <p>Chester County Pennsylvania</p>	<p style="text-align: center;"><b>ORDINANCE # 2018-03</b></p> <p style="text-align: center;"><b>NUISANCE ORDINANCE</b></p>	
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**§1-103. Nuisances enumerated.**

- A. The dumping or accumulation of garbage, rubbish, discarded equipment, construction materials and the like on public or private property, except in containers for temporary storage awaiting lawful disposal.
- B. The erection of any dangerous structure.
- C. The burning of household hazardous waste, recyclable materials, tires or other toxic materials.
- D. Operating machinery, tools or equipment for the purpose of construction or of performing repairs or maintenance on real or personal property whereby noise is transmitted to the property of another before 7:00 a.m. or after 9:00 p.m. on weekdays and before 7:00 a.m. or after 9:00 p.m. on Saturdays and Sundays at the prevailing time. Excepted from the foregoing restrictions are customary and usual agricultural operations, maintenance and repair operations performed on outdoor recreational facilities, such as parks, playing fields, playground facilities and golf and tennis facilities. In no event shall the foregoing excepted actions commence prior to 6:00 a.m., prevailing time.
- E. Maintaining three or more motor vehicle nuisances, except where such vehicles are maintained in a lawful vehicle repair shop or as part of a licensed and lawfully compliant junkyard.
- F. Discharge of firearms either continuously or intermittently for a period in excess of one (1) hour per day except when engaged in lawful hunting.
- G. Discharge of firearms upon property in a manner that is inconsistent with Pennsylvania Game Code found at 34 Pa.C.S.A. §§101-2965 and/or in a manner that recklessly endangers another person as defined by the PA Crimes Code.
- H. The operation of any motor vehicle, including but not limited to ATV's, motorcycles and/or dirt bikes, for recreational purposes on private property in such an excessive manner (either due to the number of vehicles, extent of time of use, continuous noise, and/or due to close proximity to adjacent properties) which causes injury, damage, inconvenience, annoyance or discomfort to any reasonable person in the legitimate enjoyment of his/her rights of person

<p>West Caln Township Board of Supervisors</p> <p>Chester County Pennsylvania</p>	<p><b>ORDINANCE # 2018-03</b></p> <p><b>NUISANCE ORDINANCE</b></p>	
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or property. Additionally, the time constraints set forth in Section D. above shall be equally applicable to these activities with respect to noise.

I. Maintaining or causing to be maintained any dangerous structure, including but not limited to abandoned or unoccupied trailers, motorhomes, buildings or parts thereof in state of dilapidation or disrepair.

J. Animals, including but not limited to dogs, chickens and roosters, that are kept in such a manner which results in causing a disturbance to the peace or unduly annoy the public through the animal’s noise, incessant barking, smell, mischief, continually running at large, or other annoying properties.

**§ 1-104. Exemptions.**

The following are specifically declared not to be nuisances within the meaning of this Ordinance:

- A. The establishment or operation of a municipal disposal facility.
- B. The accumulation of a compost heap of vegetable matter or the manure of animals for agricultural or horticultural purposes.
- C. Any agricultural operation conducted in accordance with normal agricultural operations, so long as the agricultural operation does not have a direct adverse effect on the public health and safety.
- D. Pre-existing commercial gun clubs that have appropriate licenses if required.
- E. Routine lawn and home maintenance, including mowing and yard work.

**§1-105. Notice of Violation.**

A. Whenever a condition of violation constituting a nuisance is permitted or maintained, the Board of Supervisors shall cause a written Notice of Violation (NOV) to be served upon the owner of the property in any one of the following ways:

<p>West Caln Township Board of Supervisors</p> <p>Chester County Pennsylvania</p>	<p style="text-align: center;"><b>ORDINANCE # 2018-03</b></p> <p style="text-align: center;"><b>NUISANCE ORDINANCE</b></p>	
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1. By handing a copy of the notice to the owner.
2. By handing a copy of the notice to an adult member of the family at the residence or to an adult person in charge of such residence.
3. By fixing a copy of the notice to the door of the premises in violation.
4. By mailing a copy of the notice to the last known address of the owner by certified mail.

B. Any Township law enforcement officer, Zoning Officer, Code Enforcement Official or any other person designated by the Board of Supervisors may issue and/or serve a NOV requiring the abatement of a nuisance.

C. Such notice shall set forth in what respects such condition(s) constitutes a nuisance and whether removal is necessary and required by the Township or whether the situation can be corrected by repairs, alterations or by fencing or boarding or in some way confining and limiting the nuisance. Such notice shall require the owner to commence action in accordance with the terms of notice within 21 days and thereafter to fully comply with the terms of the notice in order to abate the nuisance with all work done at the owner's expense. If the circumstances require immediate corrective measures or immediate ceasing of activities, the notice shall state so and require immediate compliance.

D. If proper notice is given and compliance does not take place, the Township may pursue the additional enforcement actions, legal actions and/or remedies as provided for by this Ordinance.

**§ 1-106. Violations and penalties.**

Any person who violates or permits a violation of this Ordinance shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue

<p>West Caln Township Board of Supervisors</p> <p>Chester County Pennsylvania</p>	<p><b>ORDINANCE # 2018-03</b></p> <p><b>NUISANCE ORDINANCE</b></p>	
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shall constitute a separate offense, and each section of this ordinance that is violated shall also constitute a separate offense.

**§1-107. Additional remedies.**

In addition to any other remedies provided by law, the following actions may be taken to remove or abate any continuing violations of this Ordinance:

- A. The local police department, either with or without the consent of the landowner or person in charge, may take the necessary action to remedy the nuisance to protect the safety of the public; and
- B. The Board of Supervisors may direct the removal, repairs and/or alterations to be done by the Township in order to abate the nuisance, and those cost thereof, with a penalty of 10%, may be collected against the owner of the premises by an action of assumpsit, or by filing a municipal claim or lien thereafter against the real estate.
- C. The Board of Supervisors may proceed in law or equity to remove or abate any continuing violation of this ordinance.”

**Section 2.** 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 hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**Section 3.** All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

**ORDINANCE # 2018-03**  
**NUISANCE ORDINANCE**



**Section 4.** The appropriate officers of the Township are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

**Section 5.** This Ordinance shall become effective as provided by law.

**ENACTED AND ORDAINED THIS 11th DAY OF JULY, 2018.**

**ATTEST:**

**BOARD OF SUPERVISORS OF  
WEST CALN TOWNSHIP**

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Thomas Siedenbuehl Secretary

BY: \_\_\_\_\_  
Donald W. Martz, Chairman

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Allen R. Martin, Vice Chairman

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Joseph Hutton, III, Member