TOWNSHIP OF PEQUEA

Lancaster County, Pennsylvania

ORDINANCE NO. **180-2014**

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF PEQUEA, LANCASTER COUNTY, PENNSYLVANIA, TO ADOPT THE INTERNATIONAL PROPERTY MAINTENANCE CODE/2009 AS THE PROPERTY MAINTENANCE CODE FOR THE TOWNSHIP OF PEQUEA

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

Section 1. Short Title. This Ordinance shall be known as the Pequea Township Property Maintenance Code.

Section 2. Adoption of Property Maintenance Code. That a certain document, copies of which are on file with the Office of the Secretary of the Township of Pequea, Lancaster County, Pennsylvania, being marked and designated as the International Property Maintenance Code 2009 edition, be and is adopted hereby adopted as the Property Maintenance Code of the Township of Pequea, regulating and governing the conditions and maintenance of all property, buildings and structures for the protection of the health, safety and welfare of the Township as herein provided. All of the regulations, provisions, penalties, conditions and terms of sail Property Maintenance Code on file with the Township of Pequea are hereby referred to, adopted and made a part hereof, as if fully set forth in this Ordinance, with the additions, insertions, deletion and changes if any enumerated in Section 3 of this Ordinance.

Section 3. Additions, Insertions, Deletions, and Changes. The following sections are hereby revised and changed as noted:

A. Section 101.1 shall be amended by inserting "Township of Pequea, Lancaster County, Pennsylvania."

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

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

C. Section 106.3 is deleted in its entirety and the following shall be inserted:

106.3. Prosecution of Violation. If the Code Official has served a notice that a violation of this Ordinance has occurred and the notice is not complied with in the time set forth in that notice, or if the Code Official determines that there is not sufficient time to serve a notice of violation or such a notice would have no effect, the Code Official shall notify the Board of Supervisors of the violation and shall request the Board to authorize the institution of enforcement proceedings against the violator or shall request the Board to authorize the institution of proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the activity which is in violation of the provisions of this Code or any other order or direction made pursuant thereto. If the Code official observes a violation of Section 302 or Section 307 of this Code, in addition to the foregoing, such Code Official is hereby empowered to institute summary criminal proceedings against the violator.

D. Section 106.4 is deleted in its entirety and the following shall be inserted:

106.4. Penalty. Any person, partnership or corporation who shall neglect, fail or refuse to comply with any provision of this Code or applicable standards incorporated by this Code, or who shall violate any of the provisions of this Code, or shall use, maintain or alter a lot, building or structure in violation of any approved plan or the provisions of this Code, or who shall fail to follow the directives of the Code Official, or who shall violate any order, permit or certificate issued under the provisions of this Code, 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, or who has permitted the violation of any of the provisions of this Code or applicable standard codes incorporated by this Code, shall upon summary conviction thereof before a District Justice, be sentenced to pay a fine or penalty of not less than $100.00 nor more than $1,000.00 for a first offence, and all costs of prosecution, not less than $200.00 and not more than $1,000.00 for a second offense plus all costs of prosecution, and not less than $300.000 and not more than $1,000.00 for a third and subsequent offense, plus costs of prosecution, such fines and penalties to be collected as provided by law and to be paid over to the Township treasury. Costs of prosecution shall include Township's attorneys' fees as permitted by of the Second Class Township Code. Each day that the violation of this chapter continues shall constitute a separate offense. This Code may also be enforced by an action in equity brought in the Lancaster County Court of Common Pleas.

E. Section 107.3 is deleted in its entirety and the following shall be inserted:

107.3. Method of Service. Service of a notice of violation shall be made upon the owner or occupier of the premises in any of the following manners: by delivering the same to the owner or occupant personally or by delivering the same to and leaving it with any adult person in charge of the premises or by affixing the same in a conspicuous manner upon the premises or by sending notice by certified or registered mail addresses

to the owner at the last known address with return receipt requested. Such procedures shall be deemed the equivalent of personal notice.

F. Sections 107.7 through 107.7.2 are deleted in their entirety and the following shall be inserted:

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 ten (10) 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 corrected 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 ten (10%) 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.

G. Section 110.3 is deleted in its entirety and the following shall be inserted:

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 ten (10%) 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.

H. Section 110.4 shall be deleted in its entirety.

I. Section 111, Means of Appeal, shall be deleted in its entirety, and 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 Board of Supervisors. Such appeal shall be made in writing within ten (10) days after such decision has been made. The appeal shall be verified by an affidavit, shall state the grounds therefore 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 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. Board of Supervisors shall make a prompt decision on such appeal. In making a decision, Board of Supervisors 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. Board of Supervisors shall render a written decision, copies of which shall be provided to the Code Official and the appellant.

J. Section 112.4 shall be deleted in its entirety.

K. Section 202, General Definitions, shall be amended by inserting the following definitions:

Abate/Abatement: When used in connection with lead-based coating, the reduction of, removal of, or encapsulation of lead, followed by thorough cleanup and post-cleanup treatment, from the surfaces and sources that promote exposure resulting in the possibility of lead toxicity or poisoning, which abatement shall be in a manner approved or determined to be appropriate by the Code Official. The methods of abatement and subsequent disposal of lead shall not present a hazard to health from fumes, dust or vapors by inhalation, ingestion or absorption through the skin and mucous membranes and shall be in accordance with all applicable laws, ordinances, regulations and safety standards of the Borough, the state and federal agencies.

Board of Supervisors: The governing body of the Township.

Exposed Surface: When used in connection with lead-based coatings, all interior surfaces of a dwelling or other structures which may be occupied by children and those exterior surfaces of such dwelling or structures which are readily accessible to children under six years of age, such as stairs, decks, porches, railings, windows, doors and sidings. Any yard or other area in the vicinity of a dwelling or structure including without limitation any soil, yard or other area which may be subject to contamination from flaking or peeling lead-based coatings or any other source of lead is also considered an exposed surface.

Lead-Based Coating: Any paint, varnish, glaze or other applied liquid surface coating and putty or plaster which contains a quantity of lead in excess of 0.6 milligrams per square centimeter of surface.

Recognized Method of Analysis: Any recognized method of lead detection and analysis which results in measurement of lead in milligrams in a square centimeter of a particular area, including without limitation a radio isotope x-ray fluorescent analyzer for in-place determination of lead content.

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 passers-by; 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.

L. 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 nonpayment of water or sewer rates or charges in accordance with applicable laws and procedures.

M. Section 302.4 shall provide as follows:

302.4. Weeds. All premises and exterior property of lots which are two (2) acres or less in area and all premises and exterior property of lots which are greater than two acres in area and which are not in agricultural production or forested shall be maintained free from weeds or plant growth in excess of ten (10) 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.

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,

Borough authorities may remove, trim or cut such grass, weeds or vegetation, and the cost thereof, together with a penalty of ten (10%) percent of such cost, and allowable attorneys' fees may be collected by the Borough from such person in the manner provided by law.

If 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 ten (10%) percent of such cost, and allowable attorneys' fees from such person in the manner provided by law.

N. 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 premise 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 premise for more than 30 days. The Code Official 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 premise. If any hazardous vehicle is parked or placed upon a premise, the Code Official shall notify the owner or occupant of the premises of the duty to remove the hazardous vehicle. The Code Official shall post upon the hazardous vehicle in a conspicuous place a notice directing the removal of the hazardous vehicle within ten (10) days. Should the vehicle not be removed, the Code Official shall serve a second notice which shall be in writing and shall provide a time limit not to exceed five (5) 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 Borough 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.

O. 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.

P. Section 304.2, Protective Treatment, shall be amended by adding the following sentence to the existing Section:

If exterior painted surfaces contain lead levels as set forth in Section 305.7 herein, all requirements of Section 305.7 shall be met.

Q. Section 304.14, Insect Screens, shall be amended by inserting into the first sentence "April 15 to October 1."

R. Section 305.7 shall be added which shall provide as follows:

305.7. Lead-Based Coatings. Any source of lead, including without limitation a lead-based coating, shall be considered a health hazard to a child under six (6) years of age who has demonstrated an elevated blood level (which for the purposes of this Code shall be considered to be a level equal to or greater than 10 micrograms per deciliter or any future standard established by the United States Public Health Service Centers for Disease Control) if,

1. It exists in or about a dwelling or other structure in which a child under six(6) years of age who has demonstrated an elevated blood lead level commonly resides or visits; and

2. It is determined to be on any flaking, peeling, non-intact deteriorated surface or on any exposed surface or in any soil or dust found in or about the dwelling or structure or in any rugs, carpet or other surface coverings in or about the dwelling or structure; and

3. It contains a quantity of lead in excess of 0.6 milligrams per square centimeter of surface when measured by a recognized method of analysis.

305.7.1. Notices. Sources of lead, including lead-based coating areas, must be marked with warnings immediately upon positive testing, and notice of

these areas shall be given to the occupant at the time of testing to avoid further child poisoning.

305.7.2. Abatement of Health Hazard. If it is determined that there exists a health hazard under Section 305.7, the owner shall be responsible to abate the hazard within such time as specified by the Code Official. The owner and/or occupant of the premises shall bear the cost of abatement and shall present a written plan of abatement to the Code Official for review and approval prior to initiating said abatement. The owner and/or occupant of the premises shall abate the health hazard in accordance with the approved plan, shall completely perform all steps of such approved plan, and shall perform the work set forth in the approved plan in a good and workmanlike fashion. The owner and/or occupant of the premises shall submit proof satisfactory to the Code Official of abatement promptly upon completion.

S. Section 308, Rubbish and Garbage, shall be amended by adding the following new Sections 308.4 Notices of Violation, and 308.5 Enforcement, which shall provide:

308.4. Notices of Violation. 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 ten (10%) percent of such cost, and allowable attorneys' fees may be collected by the Township from such person in the manner provided by law.

If 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 ten (10%) percent of such cost, and allowable attorneys' fees from such person in the manner provided by law.

308.5. Enforcement. The Code Official shall be authorized to institute summary criminal proceedings against any person who fails to comply with the requirements of 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 Board of

Supervisors, Code Official, or other officer or employee of the Township provides the notice set forth below. 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 premises.

T. Section 507.1 General shall be deleted in its entirety and a new section inserted which provides:

507.1. General. Drainage of roofs and paved areas, yards, courts, and other open areas on the premises shall not be discharged in a manner which creates a nuisance. Without limiting the foregoing, drainage of storm waters from any source shall not be directed into any drain connecting with any public sewer system, any individual or community sewage disposal system, any cesspool, or any absorption area for a sewage disposal system. Drainage water from any source shall not be directed on to the cartway of a public street or discharged in such a matter that water accumulate on the cartway of a public street.

U. Section 602.3, Heat Supply, shall be amended by inserting "October 1 to April 15" into the appropriate places.

V. Section 602.4, Occupiable Work Spaces, shall be amended by inserting "October1 to April 15" into the appropriate places.

Section 4. Legislative Intent. It is the intention of Board of Supervisors that the requirements of this Ordinance shall supplement and shall not repeal any existing regulations, except to the extent that this Ordinance specifically repeals any existing regulations or ordinances or irreconcilably conflicts with such other ordinance. Where this Ordinance imposes greater regulations upon the maintenance of structures of land or any other matter governed by this Ordinance, the provisions of this Ordinance shall control. Where another Ordinance, currently in effect or enacted in the future, provides greater regulations on the maintenance of structures of land or any other matter governed by this Ordinance, such other ordinance shall control.

Section 5. Severability. 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 of provisions of this Ordinance. It is hereby declared to be the intent of Board of Supervisors that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part of provision had not been included herein.

Section 6. Repeals. Ordinance No. 69-Weeds, Ordinance No. 116-2000 Property Maintenance Code, and Ordinance 171-2012 Nuisance Ordinance, are hereby repealed in their entirety.

Section 7. Effective Date. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of Pequea as provided by Law.

DULY ORDAINED AND ENACTED this _18th_ day of ___June__, 2014, by the Board of Supervisors of the Township of Pequea, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF PEQUEA
Lancaster County, Pennsylvania

Attest: Jill Kennedy
Secretary

By: Harry D. Lehman
Chairman
Board of Supervisors

{TOWNSHIP SEAL}