

TOWNSHIP/BOROUGH
SUSQUEHANNA COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE PROHIBITING NUISANCES ON PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP/BOROUGH, PROVIDING FOR THE REMOVAL THEREOF BY THE TOWNSHIP/BOROUGH; ESTABLISHING THE RIGHT OF THE TOWNSHIP/BOROUGH TO COLLECT THE COSTS ASSOCIATED WITH THE SAID REMOVAL BY THE TOWNSHIP/BOROUGH; AND FIXING PENALTIES FOR VIOLATIONS.

WHEREAS, The Board of Supervisors/Borough Council of Township/Borough, Susquehanna County, Pennsylvania, are charged with the duty to protect and provide for the health, safety and general welfare of the citizens of Township/Borough; and,

WHEREAS, The Board of Supervisors/Borough Council has determined it to be in the best interest of the health, safety and general welfare of the citizens of Township/Borough to prohibit unreasonable, unwarrantable or unlawful courses of conduct or the use of private or public property which causes or may cause injury, damage, hurt, inconvenience, annoyance, interference, or discomfort to others in the legitimate use and enjoyment of their rights of person or property; and,

WHEREAS, The authority to prohibit nuisances is provided by the Second Class Township Code/Borough Code, as amended;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, and be it enacted and ordained, by the Board of Supervisors/Borough Council, of _____ Township/Borough/Borough, Susquehanna County, Pennsylvania, as follows:

Section 1 - DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words and derivations thereof shall have the meaning given in this Section 1.

Abandoned or Junked Vehicle - Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition.

Antique Vehicle - Any vehicle twenty-five (25) years or older which has been restored to good operating and road-worthy condition.

Collector Vehicle - Any vehicle of limited manufactured production from the present to twenty-four (24) years old, in good operating and road-worthy condition.

Board of Supervisors/Borough Council, or Board - The Board of Supervisors/Borough Council of the Township/Borough of , Susquehanna County, Pennsylvania.

Dangerous Building - Any building or structure which has any one or combination of the following defects:

- A. Damage by fire, wind, or other causes which make the building or structure dangerous to life, safety, or the general health and welfare of the occupants, the citizens of the Township/Borough, or the public at large.
- B. So dilapidated, decayed, unsafe, unsanitary, rodent infested or which fail to provide the amenities essential to

decent living that the said building or structure is unfit for human habitation or is likely to cause accidents, sickness, or disease.

- C. Parts which are so attached that the said parts may fall and injure the occupants, the citizens of the Township/Borough, or the public at large.
- D. Not adequately and properly ventilated.
- E. Does not have facilities for the discharge of all household sewage and graywater wastes into a public or private system meeting Township/Borough and state standards.
- F. A general condition which is unsafe, unsanitary or dangerous to the general health and welfare of the occupants, the citizens of the Township/Borough, or the public at large.

Enclosed 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. Temporary structures such as tents or tarpaulins, and trailers, boxes and other containers are not considered buildings.

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 sixty (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:

- A. 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;
- B. Used lumber, boxes, crates and pallets;
- C. Used tires;
- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable;
- E. Mobile/manufactured homes that are not in habitable condition; and,
- F. Abandoned or junked vehicles.

Junk shall not include:

- A. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection;
- B. Agricultural vehicles and implements such as tractors, mowers, etc. for use as parts for equipment and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.; and,
- C. Construction and contractors equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in the Township/Borough, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

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, annoyance, interference, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.

Owner - The person owning, leasing, renting, occupying or having charge of any premises in the Township/Borough.

Person - Any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

Public Road - Any street, highway, road, or alley maintained by the Township/Borough or by the Commonwealth of Pennsylvania

Screened: Not visible from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by fencing, topography, berms, natural and planted vegetation or other means approved by the Township/Borough Board of Supervisors/Borough Council.

Township/Borough - The Township/Borough of _____, Susquehanna County, Pennsylvania.

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

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.

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.

Section 2 - NUISANCES ENUMERATED AND DECLARED ILLEGAL

In the interest of protecting and promoting the public health, safety and welfare, nuisances, including, but not limited to, the following, are hereby declared to be illegal and it shall be unlawful for any person or persons to make, maintain, cause or permit to be made, maintained or caused any such nuisance:

- A. Storing, accumulating or depositing of the following:
 - 1. Waste or garbage
 - 2. Junk, except at a bona fide junk yard meeting the requirements of the Township/Borough Zoning Ordinance and the Township/Borough Junk Regulation Ordinance.

- B. The outside storage or deposit on a lot of:
 - 1. One (1) or more abandoned or junked vehicles.
 - 2. One (1) or more mobile/manufactured homes that are not in habitable condition.
 - 3. One (1) or more of any vehicle, including antique and collector vehicles, which are stored in a disorderly manner.

This shall not prohibit the operation of a bona fide vehicle repair/towing business in compliance with the Township/Borough Zoning Ordinance and the Township/Borough Junk Regulation Ordinance.

- C. Burning of any tires, tar products, plastic, waste or garbage, or any other material which emits any noxious or annoying fumes, smoke or gases, except for burning of leaves, brush, and paper products conducted in accord with the Township/Borough Burning Ordinance.
- D. Any dangerous building.
- E. 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 Ordinance. This shall not affect any requirement for screening provided in accord with any other Township/Borough ordinances.
- F. Permitting or allowing any well, cistern, or similar structure to be, or remain uncovered.
- G. Pushing, shoveling or otherwise depositing snow or other material upon the shoulders or traveled portion of any public road.
- H. Any noise source which due to intensity, frequency, duration, location, lack of shielding or other reason which causes injury, damage, hurt, inconvenience, annoyance, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.
- I. 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.
- J. Any other such action, non-action, situation or physical object which by its nature is deemed by the Board of Supervisors/Borough Council to constitute a public nuisance under the terms of this Ordinance.

Section 3 - ENFORCEMENT OFFICER

The Board of Supervisors/Borough Council may appoint one or more Enforcement Officers, who may be an individual, firm or agency of the Township/Borough, to conduct inspections, make reports and administer other parts of this Ordinance as determined by the Board of Supervisors/Borough Council. In the conduct of his duties, the Enforcement Officer, with the authorization of the Board of Supervisors/Borough Council, may engage the services of competent engineers or other consultants to determine the nature and extent of any nuisance.

Section 4 - INSPECTIONS AND ACCESS

- A. All places and premises in the Township/Borough shall be subject to inspection by the Board of Supervisors/Borough Council or Enforcement Officer if the Township/Borough has reason to believe that any provision of this Ordinance is being violated, provided the owner of the premises grants permission for such inspection or the Township/Borough has obtained the necessary authority in accord with applicable law.
- B. Provided access is effected in accord with this Section 4, it shall be unlawful for any person to hinder, delay, resist or prevent the Board of Supervisors/Borough Council or Enforcement Officer from having full access to any place or premises upon which a violation of this Ordinance is believed to exist.

Section 5 - ACTION ON COMPLAINTS

Upon receipt of a complaint, the Township/Borough shall not be obligated to proceed with any action to determine if a violation of this Ordinance exists unless such complaint is made in writing, and it includes the name and address of the person registering the complaint. The Township/Borough maintain the confidentiality of the name and address

of the person registering the complaint unless otherwise required by law to release such information.

Section 6 - NOTICE TO VIOLATORS

- A. Service of Notice - Whenever the Board of Supervisors/Borough Council, or the Enforcement Officer, determines that a nuisance exists in the Township/Borough, the Board, or the Enforcement Officer, shall prepare a written notice to be served on the owner and/or tenant of the premises on which the nuisance is located or originates. The written notice shall be served by one or more of the following methods:
 - 1. Personal delivery.
 - 2. Fixing a copy to the door of the building on the premises of the violation.
 - 3. Certified mail to the last known address of the owner.
 - 4. Publishing in the Township/Borough's official newspaper once each week for two (2) consecutive weeks.
- B. Public Property - If a nuisance is found on any public property or premises, or on any public road right-of-way, notice in writing shall be given to the person responsible for the nuisance in accord with this Ordinance and all other provisions of this Ordinance shall apply.
- C. Content of Notice
 - 1. The notice shall enumerate the conditions which constitute the nuisance and what action is required to abate the nuisance. Such actions may include, but shall not be limited to, demolition, repairs, alterations, fencing, discontinuance, removal, screening, and/or covering.
 - 2. The notice shall include a time frame for the abatement of the nuisance, with such time frame established by the Board, or its duly appointed representative, based upon the nature of the nuisance and providing a reasonable period for the owner to take the required action. However, in no case shall the period for abatement of the nuisance exceed ninety (90) days from the time notice is served upon the owner; and, in certain cases, immediate correction may be required.

Section 7 - VIOLATIONS AND Township/Borough ACTION TO ABATE NUISANCES

- A. Compliance - Failure to comply with any provision of this Ordinance, and/or failure to comply with an order to abate a nuisance, shall be violations of this Ordinance.
- B. Township/Borough Removal - All costs associated with the abatement of the nuisance, including, but not limited to materials and labor, shall be borne by the owner of premises upon which the nuisance is located or originates. If the violator fails to abate the nuisance within the specified time period, the Township/Borough may effect such removal and clearing, and the cost of the same, plus twenty (20) percent thereof, shall be paid by the or violator. The recovery of such costs of abatement, may be in addition to the penalty prescribed in §7 of this Ordinance. The Township/Borough may also take enforcement action under the terms of this Ordinance. All property deemed junk under the terms of this Ordinance which remains on the premises after the time period specified in the notice shall be presumed to be abandoned and to be of no value and the same may be disposed of by the Township/Borough on behalf of the violator in accord with all applicable laws.

Section 8 - PENALTIES FOR VIOLATIONS

Failure to comply with any provision of this Ordinance, and/or failure to comply with an order to abate a nuisance, shall be violations of this Ordinance. Any person who has violated or permitted the violation of any of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding, pay a fine of not less than

six hundred dollars (\$600.00) but not more than one thousand dollars (\$1,000.00) plus all court costs, including reasonable attorney fees incurred by the Township/Borough as a result thereof. Each day that a violation continues shall constitute a separate violation. All fines, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township/Borough. If the defendant neither pays nor timely appeals the judgement, the Township/Borough may enforce the judgement pursuant to the rules of civil procedure.

Section 9 - SEVERABILITY

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors/Borough Council having adopted this Ordinance as if such invalid portions had not been included therein.

SECTION 10 - EFFECTIVE DATE

This Ordinance shall become effective five (5) days after the adoption thereof.

ENACTED AND ORDAINED into law by the Board of Supervisors/Borough Council of _____ Township/Borough, Susquehanna County, Pennsylvania, this ____ day of _____, 200_.

ATTEST:
