

TOWNSHIP OF PENN, BUTLER COUNTY
ORDINANCE NO. 179

AN ORDINANCE OF THE TOWNSHIP OF PENN, BUTLER COUNTY PENNSYLVANIA PROHIBITING THE KEEPING OR STORAGE OF JUNK AND RUBBISH IN AN UNSHELTERD AREA; PROVIDING FOR THE PENALTY FOR VIOLATION OF SAID ORDINANCE; AND FURTHER PROVIDING FOR THE REPEAL IN PERTINENT PART OF ORDINANCE NUMBER 70.

WHEREAS, the Board of Supervisors of the Township of Penn, Butler County, Pennsylvania ("Board") has the power and the duty to protect the health, safety, and welfare of the people and property in the Township; and

WHEREAS, Section 1529 of the Pennsylvania Second Class Township Code, 53 P.S. §66704-A, provides the Board of the Township of Penn, Butler County, Pennsylvania ("Township") with the power and authority to prohibit nuisances, including, but not limited to, the storage of abandoned or junked automobiles

WHEREAS, the Board desires to enact an ordinance establishing property maintenance standards regarding nuisances in the Township.

NOW THEREFORE, BE IT ORDAINED, the Board of Supervisors of the Township of Penn, Butler County, Pennsylvania, under the authority granted by the Pennsylvania Second Class Code, as amended; and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1 – SHORT TITLE; REPEAL OF PRIOR TOWNSHIP ORDINANCES

SECTION 2 – PURPOSE

SECTION 3 – RESPONSIBILITY – NUISANCE DECLARED

SECTION 4 – DEFINITIONS

SECTION 5 – NUISANCE ENUMERATED AND DECLARED ILLEGAL

SECTION 6 – ENFORCEMENT OFFICER; NOTICE

SECTION 7 – HEARINGS

SECTION 8 – VIOLATIONS; ACTION TO REMOVE JUNK/RUBBISH

SECTION 9 – PENALTIES FOR VIOLATIONS

SECTION 10- SEVERABILITY

SECTION 11 – CONFLICTS

SECTION 12 – EFFECTIVE DATE

SECTION 1 – SHORT TITLE; REPEAL OF PRIOR TOWNSHIP ORDINANCES

This Ordinance shall be known and may be cited as THE JUNK AND RUBBISH ORDINANCE OF PENN TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA.

Township Ordinance Number 70 are hereby repealed in its entirety and replaced by this Ordinance.

SECTION 2 – PURPOSE

The purpose of this Ordinance is to regulate the depositing, accumulation, storage, and sale of junk and or rubbish, refuse, garbage, junk vehicle, vehicle parts, or waste to minimize safety hazards created by the same, to prevent blight and property deterioration, to prevent nuisances, to protect property values, to enhance the appearance of properties within the community, and to protect otherwise the general health, safety, and welfare of the citizens of the Township.

SECTION 3- RESPONSIBILITY – NUISANCE DECLARED

It shall be the responsibility of the owner of any parcel upon which any junkyard /or rubbish, refuse, garbage, junk vehicle, vehicle parts or waste is situated and the owner of any such item to comply with this Ordinance and to provide for the removal of the same and remediation of any environmental problems associated with it. By this Ordinance, the Township enumerates and declares certain nuisances, which shall be removed, disposed of, or corrected as herein provided.

Any person who fails to comply with the provisions of this Ordinance shall be deemed to be in violation thereof and shall be subject to the penalties and remedies described herein.

SECTION 4 -DEFINITIONS

Abandoned or Junk Vehicles – Any vehicle, including but not limited to automobiles, motorcycles, trucks, trailers, or boats, not stored in a fully enclosed building, which is not in good operating and road-worthy condition.

Agricultural Operation – The use of any parcel containing ten (10) or more acres for the raising of agricultural products or livestock for economic gain. This term shall include all necessary structures and equipment for the use within the limits of the parcel.

Board of Supervisors or Board – The Board of Supervisors of Penn Township, Butler County, Pennsylvania.

Debris – Discarded waste; litter.

Enclosed Building - Any structure having a roof supported by fully enclosed exterior weight-bearing walls and intended for shelter, housing, or enclosure of any individual, animal process, equipment, services, goods, or materials of any kind or nature. This term does not include any temporary structures such as tents or tarpaulins, trailers, boxes, and other containers.

Enforcement Officer – The individual(s), Penn Township Police, or agency firm appointed by the Board to enforce the provision of this Ordinance.

Garbage – Animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food; also, all food wastes, unwanted or worthless materials, or trash.

Good Operating and Road-Worthy Condition – A Vehicle having both a current and valid registration, valid current insurance, and a current and valid inspection sticker as required by motor vehicle laws of the Commonwealth of Pennsylvania and is capable of being utilized for its intended purpose.

Junk -Junk shall include, but not limited to:

- A. Any scrap, scrap iron, tin, brass copper, lead zinc, and all other metals and alloys; any rubbish or reclaimable material; bones, glass, bottles, rags, paper, used cloth, used rubber, used rope, and similar materials; old or use machinery, tools, appliances, furniture, plumbing, heating, electrical and other fixtures or parts thereof; pipe and pipe fittings; flammable materials or debris; whether or not stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal, or other use or disposition; any worn out or rubbish of any kind; any other item which has outlived its usefulness in its original form and all articles discarded or no longer used as a manufacturer article composed of any one or more of the materials herein mentioned; and any other item fit to be discarded;
- B. Used lumber, boxes, crates, and pallets;
- C. Used Tires wheels rims and/or hubcaps;

- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable; and/or
- E. Any parts from vehicles, including but not limited to automobiles, motorcycles, trucks, trailers, or boats.

Junk shall not include:

- A. Any solid or liquid waste the waste of which is regulated by the Pennsylvania Department of Environmental Protection; and/or
- B. Agricultural vehicles or implements such as tractors, mowers, etc. for use as parts for equipment and machinery used as part of an active, ongoing agricultural operation provide such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

Nuisance – Any unreasonable, unwarranted, or unlawful course of conduct or use of private property which a use 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; that which annoys or disturbs one in possession of his property, rendering its ordinary use or occupation physically uncomfortable to them; everything that endangers life or health, gives offense to senses, violates the law of decency, or obstructs reasonable enjoyment of life or property; that class of wrongs that arise from the unreasonable, unwarrantable, or unlawful use by a person of his own property, either real or personal, or from his own improper, indecent, or otherwise unlawful personal conduct, working and obstruction of or injury to the right of another or of the public, and producing such material annoyance, inconvenience, discomfort, or hurt, that the law will assume resulting damage.

On-Site Utility Vehicle -An abandoned or junked vehicle used on a specific property for plowing, hauling firewood, moving goods or equipment, and other similar property maintenance or operational activities.

Outside Storage – Not contained in a building fully enclosed with completed walls and roof.

Owner – The person owning, leasing, renting, occupying, or having charge of any parcel in the Township.

Parcel – A lot or plot of land.

Rubbish or Refuse – Combustible and noncombustible waste materials including but not limited to, waste or garbage, junk, residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, rubber, leather, leaves, tree branches, yard trimmings, tin cans, mineral matter, glass, bottles, China, glass crockery, dust, and similar materials; and any other worthless materials, trash or items rejected or discarded as worthless.

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

Township – The Township of Penn Township, Butler County, Pennsylvania.

Trash – Worthless and/or discarded material; junk.

Vehicle – Any device in, upon, or by which any person or property is or may be driven, ridden, 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, ATV's, snowmobiles, motor homes, travel trailers, motorcycles, machinery, trailers, farm machinery and implements, and other wheeled or unwheeled equipment; boats; and aircraft.

Waste – Any industrial, residential, 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 or from community activities. The term shall also include any garbage, refuse, or rubbish, discarded vegetation, other discarded material, or other waste products, including but not limited to 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, quarrying, or agricultural water supply treatment facility, wastewater 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; and any worthless or useless material that is produced as a byproduct or discarded as refuse.

SECTION 5 – NUISANCE ENUMERATED AND DECLARED ILLEGAL

In the interest of protecting and promoting 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 any of the following:

1. Waste, rubbish or refuse, garbage; and/or
2. Junk, except at a bona fide junkyard meeting the requirements of the Township Zoning Ordinance.

B. The outside storage or deposit on a lot of:

1. One(1) or more abandoned or junk vehicles.

SECTION 6 – ENFORCEMENT OFFICER; NOTICE

The Board of Supervisors hereby appoints the Penn Township Police Department and their designees and officers to enforce the terms of this Ordinance. For purposes of this Ordinance, those individual(s) or entities identified in the preceding sentence shall be referred to as the “Enforcement Officer”.

A. Inspections – Where it is necessary to make an inspection to enforce the provisions of this Ordinance, or whenever the Enforcement Officer has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Ordinance, the Enforcement Officer is hereby authorized to enter the structure and/or premises at reasonable times to inspect or perform the duties imposed by this Ordinance, provided that if a structure is occupied, the Enforcement Officer shall present credentials to the occupant and request entry. The Enforcement Officer and/or Board of Supervisors may consult with the Township Engineer, if any, Township Solicitor, or any other qualified person, agency, or firm, in making the determination regarding the violation.

B. Notice – Whenever an inspection discloses that a violation exists, the Enforcement Officer and/or Township shall issue a notice to the owner and/or occupant of the premises. The notice, the form shall be:

1. In writing;
2. Include a statement of the reasons it is being issued;
3. Provide fifteen (15) days after receipt of such notice to rectify/remove the conditions constituting the violation to come into compliance with this

Ordinance, and may contain an outline of remedial action which, if taken, will ensure compliance with the provisions of this Ordinance;

4. Inform the owner that he has a right to a hearing before the Board of Supervisors in accordance with this Ordinance;
5. Inform the owner that should they fail to comply with the order or request a hearing, the Board of Supervisors will order the correction of the violation, and in accordance with this Ordinance, will assess any and all costs, expenses, and penalties incurred against the land on which the violation is located.
6. Set forth the penalty prescribed for each violation.

C. Service of Notice – Notice shall be sent by certified mail or shall be personally delivered to the owner, and the occupant of the premises. Where the owner is absent from the Township, all notices shall be deemed to be properly served upon the owner if:

1. A copy of the notice is served to the owner personally;
2. A copy of the notice is sent by certified mail to the last known address of the owner, regardless of receipt, and is posted in a conspicuous place on or about the premises affected by the notice; or,

D. Hearing Appearance – The Enforcement Officer, if any, shall appear at all hearings conducted by the Board of Supervisors and shall testify as to the violation.

SECTION 7 – HEARINGS

A. Hearing Request – Any person adversely affected by any notice which has been issued in connection with the enforcement of any provision of this Ordinance, may request and shall be granted a hearing on the matter before the Township Supervisors; provided that such person shall file with the Board in writing a request for a hearing setting forth a brief statement of the grounds therefore within ten (10) days after the day the violation notice was served in accordance with Section 6 hereof. Upon receipt of such request, a time and place for such hearing shall be scheduled and advertised in accordance with the Pennsylvania Sunshine Law. At such hearing, the person requesting the hearing shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The first hearing before the Board shall be commenced within 45 days from the date of receipt of the applicant's request, unless the applicant has agreed in writing to an extension of time.

- B. Board Action – After such hearing the Board of Supervisors shall have thirty (30) days to sustain, modify, or withdraw the notice of violation. In the absence of timely action by the Board, said notice shall be deemed withdrawn. If the Board sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Ordinance shall automatically become an order if a written request for a hearing is not filed with the Board of Supervisors within (10) days after such notice is served. Time is of the essence.
- C. Appeal – Any aggrieved party may appeal the decision of the Board after a hearing to the Court of Common Pleas of Butler County in accordance with the provisions of the Local Agency Law.
- D. Fee – The person requesting the hearing shall pay the fee for such hearing as may be established by Resolution of the Board of Supervisors.

SECTION 8 – VIOLATIONS; ACTION TO REMOVE JUNK/RUBBISH

- A. Violation – Any person who shall engage or continue to engage in the operation of a junkyard in violation of any other terms and provision of this ordinance, or any person who shall keep or store upon his or other premises any junk, junk vehicle, rubbish, refuse, waste, garbage in violation of any of the terms and provisions of this Ordinance, or any person who shall make, maintain, cause or permit to be made, maintained caused or permitted any nuisance enumerated and declared illegal by Section 5 of this Ordinance, shall be deemed in violation of this Ordinance.

Township Removal – If an owner or violator fails to comply with the provisions of this Ordinance after notice, the Board of Supervisors may remove all items deemed junk, junk vehicle, rubbish, refuse, waste, garbage and any other item constituting a nuisance under the terms of this Ordinance which remain on the premises and collect the cost of the same, plus twenty (20) percent thereof, from the owner by summary proceedings or under law for the collection of municipal liens. The Township may also commence appropriate actions in equity, at law or otherwise to prevent, restrain, correct, enjoin, or abate violations of this Ordinance.

SECTION 9 – PENALTIES FOR VIOLATIONS

- A. Fine; Imprisonment – Any person, firm, partnership, corporation, or other entity who or which shall violate any provision of this Ordinance or fails to comply therewith or with any of the requirements thereof, upon conviction thereof in a

summary proceeding before the District Magistrate Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$500 nor more than \$1,000, plus costs, including reasonable attorney fees incurred by the Township, and to imprisonment to the extent permitted by law for the punishment of summary offenses. The Township may also commence appropriate actions in equity, at law or otherwise to prevent, restrain, correct, enjoin, or abate violations of this code. All fines and penalties collected for violation of this code shall be paid to the Township.

- B. Costs – In accordance with Section 8 of this Ordinance, the Board of Supervisors may remove any nuisance enumerated and declared illegal under the terms of this Ordinance if the same is not done so by the violator after proper notice. The cost and expense thereof, including, but not limited to, materials, labor, and legal fees, together with a penalty of twenty (20) percent, shall be collected from the violator in any manner prescribed by law including, but not limited to, as a municipal lien. (See Section 8 B).

- C. Other Remedies – In addition to any penalty therein provided, any person who shall violate any provision of this Ordinance shall be subject to any law or laws, of the Commonwealth of Pennsylvania, which affords a remedy for such violation in any court of the Commonwealth.

SECTION 10 – 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 having adopted this Ordinance as if such invalid portions had not been included therein.

SECTION 11 – CONFLICTS

Should any provision of this Ordinance conflict with any other section, provision regulation or standard of any other Township Ordinance, the more restrictive shall apply.

SECTION 12 – EFFECTIVE DATE

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

ENACTED AND ORDAINED into law by the Board of Supervisors of Penn Township,
Butler County, Pennsylvania, this _____ day of _____ of
20____.

Township Manager

Chairman of the Board

Vice-Chairman of the Board

Supervisor