

**TOWNSHIP of PAINT
SOMERSET COUNTY, PENNSYLVANIA**

ORDINANCE NO. 05-2

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PAINT TOWNSHIP, SOMERSET COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES, STORING OR ACCUMULATING ABANDONED OR JUNKED MOTOR VEHICLES, JUNK MATERIAL, ABANDONED OR UNOCCUPIED BUILDINGS OR PARTS OF BUILDINGS IN A STATE OF DILAPIDATION OR DISREPAIR ON PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP; PROVIDING FOR THE REMOVAL THEREOF FROM PUBLIC OR PRIVATE GROUNDS AFTER NOTICE TO THE OWNERS TO DO SO, AND IN DEFAULT THEREOF, TO COLLECT THE COSTS OF SUCH REMOVAL BY THE TOWNSHIP; AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Board of Supervisors of Paint Township, Somerset County, Pennsylvania, deem it to be in the best interests and general welfare of the citizens and the residents of this Township to prohibit the unreasonable, unwarrantable activities or unlawful use of private or public property that causes injury, damage, hurt, inconvenience, annoyance or discomfort to others in the legitimate enjoyment of their rights of person or property; and

WHEREAS, Act 60 of 1995 (53 P.S. §66529), authorizes Townships of the Second Class to prohibit nuisances, to remove same and to impose penalties therefor.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is enacted and ordained by the Board of Supervisors of Paint Township, Somerset County, Pennsylvania, as follows:

TITLE

This Ordinance shall be known and may be cited as the Paint Township Nuisance Ordinance of 2005.

DEFINITIONS

The following words when used in this Ordinance or any accompanying Resolution shall have the meaning ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

ENFORCEMENT OFFICER — The official duly appointed by the Supervisors to enforce the provisions hereunder.

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling,

preparation, cooking and consumption of food; trash, refuse and all material no longer being used or suited for its initial intended use.

JUNK - Any material, including but not limited to old rope, appliances, machinery, metal, parts of machinery, glass, wood, containers, equipment and the like no longer suitable for its intended use but that may be turned to some minor, incidental or other use.

LESSEE — The person to whom the owner of property has granted possession, either by express statement or by implication.

MOTOR VEHICLE - Every device of motive power in, upon or by which any person or property may be or at one time might have been transported.

NUISANCE — Any activity, condition, structure or improvement that shall constitute a threat or potential threat to the health, safety or welfare of the citizens of the Township.

OWNER — The actual owner or custodian of the property on which vehicles, machinery, equipment or materials are stored, or where buildings, structures or operations are located or where other alleged hazards or nuisances are in existence, whether individual, partnership, association or corporation.

PERSON — Every natural person, association, partnership or corporation. The singular shall include the plural. Whenever used in connection with prescribing or imposing penalty, or both, the term as applied to a partnership shall mean the partners or any of them and as applied to corporations or associations shall mean the officers thereof.

RUBBISH — All putrescible solid wastes (except body wastes) including solid market and industrial wastes and all non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as solid market and industrial wastes, papers, wrappings, cigarettes, cardboard, tin cans, glass, bedding, crockery and similar materials, no longer suitable for its intended use and which cannot be turned to some minor, incidental or other use.

SUPERVISORS — Board of Supervisors of Paint Township, Somerset County, Pennsylvania.

TOWNSHIP — Paint Township, Somerset County, Pennsylvania.

ARTICLE I

HEALTH HAZARDS AND NUISANCES PROHIBITED.

It shall be unlawful for any person to engage in any activities or to permit conditions to exist that adversely affect the residents of Paint Township or to create or maintain any condition upon their property which could directly or indirectly cause a nuisance or health hazard to the residents of Paint Township. While not necessarily intended to be a comprehensive list, the conduct, establishment, maintenance, operation or continuance of any of the following at any time within Paint Township is hereby declared to be a nuisance under the terms of this Ordinance.

A. The maintenance or storage by an owner or lessee of an unregistered and unlicensed or uninspected motor vehicle which is unable to move under its own power and has any of the following physical defects:

1. Broken windshields, mirrors or other glass, with sharp edges.
2. One or more flat or open tires or tubes that could permit vermin harborage.
3. Missing doors, windows, hood, trunk or other body parts that could permit vermin harborage.
4. Any exposed body parts with sharp edges, including holes resulting from rust.
5. Missing tires resulting in unsafe suspension of the motor vehicle.
6. Upholstery which is torn or open that could permit vermin harborage.
7. Broken headlamps or tail-lamps with sharp edges.
8. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
9. Protruding sharp objects from the chassis.
10. Any vehicle or part thereof suspended from the ground in an unstable manner.
11. Leaking or damaged oil pan or gas tank.
12. Exposed battery containing acid.
13. Inoperable locking mechanism for doors or trunk.
14. Open or damaged floor boards, including trunk and firewall.
15. Damaged bumpers pulled away from the perimeter of vehicle.
16. Broken grill with protruding edges.
17. Loose or damaged metal trim and clips.

18. Broken communication equipment antennae.
19. Such other defects that the Supervisors might deem to threaten the health, safety and welfare of the citizens of Paint Township.
20. The storage of trailers or semi—trailers no longer registered and used or fit for cargo transport.

B. The unsheltered storage or maintenance of junk or the storage or maintenance of garbage, rubbish or any other material if any of the following conditions exist with respect thereto:

1. Broken glass or metal parts with sharp or protruding edges.
2. Openings or areas which are conducive to the harboring of vermin.
3. Storage in any manner that would allow the junk, garbage, rubbish or material, or any part thereof, to easily shift, tilt or fall from its original storage position.
4. The presence of any liquid or material of a hazardous or potentially hazardous nature, including, but not limited to, gasoline, oil, battery acids, refrigeration agents or poisons.
5. Any other condition that the Supervisors deem to be a health hazard, potential health hazard or nuisance.

C. The maintenance of abandoned or neglected buildings, structures, sidewalks or premises, which shall pose or constitute any of the following conditions or hazards:

1. A fire hazard to adjoining structures and other property within the Township.
2. A danger of infestation by vermin.
3. An area which is or which might potentially serve as an area of play or attraction for children of the Township or the public in general.
4. Buildings or structures whose interior walls or other vertical structural members list, lean, or buckle to such an extent that block line passing through the center of gravity falls outside of the middle third of its base.
5. Buildings or structures which, exclusive of the foundation, show thirty (30%) percent or more of damage or deterioration of the supporting members, or fifty (50%) percent or more of damage or deterioration of the

nonsupporting interior or outside walls or covering.

6. Buildings or structures which have improperly distributed loads upon the floors or roofs, or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
7. Buildings or structures which have been damaged by fire, wind or other causes so as to have become dangerous to life or safety of the occupants or to others in the vicinity.
8. Buildings or structures which have become or are so dilapidated, decayed or unsafe that they are unfit for human habitation or are likely to cause injury to occupants or to others in the vicinity.
9. Buildings or structures having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, fire escapes or other means of access and egress.
10. Buildings or structures, parts of which are so attached that they may fail and injure members of the public or cause damage to property.
11. Any other condition that the Supervisors shall deem to be a health hazard, potential health hazard or nuisance.

D. The setting, maintenance, operation, conduct or permitting of the establishment and maintenance of fire, combustion or manufacturing, commercial or other process that is or shall be accompanied by constant, periodic or occasional omission of smoke, sparks, ash particles, burned sawdust and debris, or the creation and spreading of ash, debris, poisons and like materials on surrounding or adjacent property to the annoyance, disturbance and detriment of surrounding property owners, residents, passersby and the traveling public.

E. The carrying on of any offensive manufacture or business, or any other use or activity upon property that by reason of noxious odors or fumes, excessive illumination, excessive noise, vibration or dust or air pollution unreasonably interferes with the reasonable use, comfort and enjoyment of property in the vicinity, or endangers the health or safety of the occupants of property in the vicinity.

F. The burning of any brush, paper, rags, automobiles, machines or other waste materials which results in the emission of excessive noxious odors or smoke, or which cause fire hazards, or which pollutes the air.

G. The maintenance or existence of any unfenced or inadequately fenced excavation which constitutes a hazard to children or other persons in the vicinity.

H. The use of private property in such manner as to unreasonably interfere with the reasonable enjoyment of property by occupants of property in the vicinity by creating unsightly conditions and appearances on said premises.

I. The keeping of a noisy dog or dogs that persistently bark, howl or whine at night so as to disturb the peace of the neighboring residents and interfere with their sleep.

J. The pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by the Township or the Commonwealth of Pennsylvania and allowing the same to remain thereon.

K. Begging, loafing or loitering upon any road or other public place within the Township or in and around commercial, institutional or business places and structures, or in or near parking lots or other access used for commercial or business purposes when such activity serves no legitimate purpose.

L. The maintenance by any owner, tenant or occupant of premises within the Township of Paint of any growth of weeds or inedible vegetation to such excessive height on said premises which interferes with the reasonable enjoyment of property by owners and occupants of surrounding property.

(1) The word "weeds" as used herein includes goldenrod, timothy, redtop, vernal grass, plantain, and all rank inedible vegetable growth that throws off unpleasant pollen or seeds and noxious odors, and high and rank inedible vegetable growth that may conceal filthy deposits or that harbors vermin.

(2) The term "weeds", shall not include cultivated flowers, gardens and other vegetation planted for some useful or ornamental purpose.

M. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or any foul or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley, or from any property into or upon any adjoining property.

N. Draining or flowing, or allowing to drain or flow, any water or drainage from within dwelling situate upon property along public highway, road, street, avenue, lane, or alley in the Township into or upon the cartway or traveled portion for said drainage by means of a drainage ditch or otherwise (the provisions of this paragraph shall be subject to an exception for swimming pool drainage, provided that the Roadmaster or Road supervisor for the Township is advised of the requested drainage and approves of the same)

ARTICLE II

Section 1. INVESTIGATION AND DECLARATION OF NUISANCES.

Whenever it shall be reported or come to the attention of any Township official or Township police officer that any activity or any building, structure, automobile, junk or other condition is in a dangerous condition, which might constitute a threat or potential threat to the health, safety or welfare of the citizens of the Township, the Board shall immediately cause an investigation to be made of such condition said investigation shall be made and conducted by one or more of the members of the Board, or by an Enforcement Officer duly appointed by the Board who is hereby vested with the authority to enforce all provisions contained herein. The Board or Enforcement Officer may, after investigation, find and declare any or all of the conditions defined or set forth in Article I of this Ordinance as a nuisance or health hazard to be a nuisance in fact.

Section 2. NOTICE TO ABATE NUISANCES.

Upon finding that creation and maintenance of any of the above activities or conditions is a nuisance in fact, as the welfare of the Township residents warrants, the Supervisors or Enforcement Officer shall give the actor, owner, lessee or occupant of the property upon which said nuisance is located (1) notice to immediately cease and desist from said activity or to immediately abate or terminate said condition or (2) at their option the Supervisors or Enforcement Officer shall give any person permitting the maintenance of such a nuisance, at least fifteen (15) days' notice to completely remove, repair or abate the same. Said notice shall be sent by certified mail, return receipt requested, may be delivered in person, or may be posted upon the premises if said person, owner, lessee or occupant of the property cannot be found.

ARTICLE III

Section 1. VIOLATIONS OF THIS ORDINANCE.

Any person, who after the delivery or posting of the notice provided for in Article II, Section 2, continues the maintenance of conduct declared to be a nuisance or who fails to take remedies to abate said nuisance when directed to do so, shall be determined to be guilty of a violation of this Ordinance and, upon conviction thereof before a District Justice by a summary proceeding, be sentenced to pay a fine not less than Three Hundred (\$300) Dollars and not exceeding Five Hundred (\$500) Dollars, and in default of payment thereof, may be sentenced to the County jail or workhouse for a period not exceeding thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense. All of said proceedings and sentencing shall be in accord with the provisions of said Second Class Township Code.

Section 2. ABATEMENT OF NUISANCES BY SUPERVISORS.

In addition to or instead of invoking the penalties set forth in the preceding paragraph, the Supervisors may, in the event of any continued violation of this Ordinance which shall be determined to constitute a nuisance in fact, remove any nuisance, hazard or dangerous structure on public or private grounds or otherwise abate the nuisance and collect the cost of such removal or abatement together with any penalties as may have been rendered in summary proceedings, from the owner of the premises. The costs of such removal, together with the penalties and attorney's fees of up to Five Hundred (\$500) Dollars may be levied against the property and recovered by the Township in the manner prescribed for the levying and collection of municipal liens.

Section 3. SEVERABILITY.

The provisions of this Ordinance shall be severable, and if any provision or phrase shall be held to be unconstitutional or invalid, such decision shall not affect the validity of any of the remaining provisions or phrases hereof, it being the intention of the Supervisors to enact and adopt each section independently or every other section.

Section 4. REPEALER

All ordinances or parts of ordinances are hereby repealed insofar as they may be inconsistent herewith, including but not limited to Ordinance 1, enacted

Section 5. EFFECTIVE DATE.

This Ordinance shall become effective upon the expiration of five (5) days from its enactment.

Section 6. Exceptions.

Businesses specifically excluded under this Ordinance are: licensed junkyards; commercial automotive body shops; commercial automotive repair shops; licensed commercial used or new automobile dealers; PROVIDED that the business can establish the following:

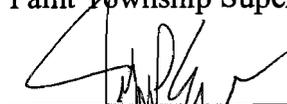
- A. The business trade name is registered in the Commonwealth of Pennsylvania;
- B. The business is licensed to charge sale tax;
- C. That the business has met all of the requirements of the Commonwealth of Pennsylvania, Department of Labor and Industry and Department of Environmental Protection;
- D. That it is in good standing with the Commonwealth; and
- E. That it issues customer invoices.

ORDAINED AND ENACTED this 19 day of September 2005

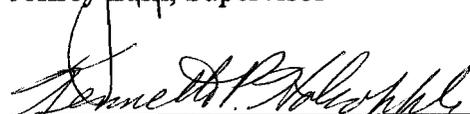
PAINT TOWNSHIP



Joel Penrod, Chairman
Paint Township Supervisors



Jeffrey Eash, Supervisor



Kenneth Hollsopple, Supervisor