

**HICKORY TOWNSHIP**

**LAWRENCE COUNTY, PENNSYLVANIA**

**RESIDENTIAL JUNK REGULATION ORDINANCE**

**ORDINANCE NO. 1-2013**

AN ORDINANCE FOR THE CONTROL OF JUNK AND RUBBISH ACCUMULATION AND THE REGULATION OF THE STORAGE OF ABANDONED AND JUNK; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

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BE IT ENACTED AND ORDAINED by the Township of Hickory, Lawrence County, Pennsylvania, under the authority granted by the Pennsylvania Second Class Township Code, as amended; and it is hereby enacted and ordained by the authority of the same as follows:

**SECTION 1 – SHORT TITLE**

This Ordinance shall be known and may be cited as *THE RESIDENTIAL JUNK REGULATION ORDINANCE OF HICKORY TOWNSHIP*.

**SECTION 2 – PURPOSE**

The purpose of this Ordinance is to regulate the depositing, accumulation, storage and sale of junk and/or rubbish, refuse, garbage or waste in **RESIDENTIAL** zoned areas in order 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 otherwise protect the general health, safety and welfare of the citizens of the Township.

**SECTION 3 – RESPONSIBILITY - NUISANCES DECLARED**

It shall be the responsibility of the property owner of the premises upon which any junk and/or rubbish, refuse, garbage 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 Junked Vehicle - Any vehicle not in a fully enclosed building, which is not in good operating and road-worthy condition (See definition of *good operating and road-worthy condition*.) and that constitutes a public hazard, such as, for example, where auto parts and debris are strewn about the property, or harbor pests and vermin, or create a dangerous condition that attracts children or have begun to leach dangerous chemicals into the ground.

Agricultural Operation - The use of any parcel of land containing Ten (10) or more acres actually for economic gain in the raising of agricultural products or livestock. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production.

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

Board of Supervisors or Board - The Board of Supervisors of Hickory Township, Lawrence County, Pennsylvania.

Collector Vehicle - Any vehicle of limited manufactured production from the present through Twenty-four (24) years old, in good operating and road-worthy condition. (See definition of *good operating and road-worthy condition*.)

Contracting Business - An active, ongoing business legally operating in the Township which involves the performance of services related to the construction of buildings, erection of structures, the preparation of the land for buildings and structures, the installation of community facilities such as roads, water systems and sewage disposal systems, or the provision of transportation services.

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, or the public at large.
- B. So dilapidated, decayed, unsafe, unsanitary, rodent infested or which fails 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, or the public at large.
- D. Not adequately and properly ventilated.
- E. Does not have facilities for the discharge of all household sewage and gray water wastes into a public or private sewage disposal system meeting Township 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, or the public at large.

Debris - Discarded waste; litter

Disorderly Manner - Untidy, lacking regular order or disturbing to the public peace and decorum.

Emergency Case - A violation which poses an imminent threat to the public health, safety or welfare and which requires immediate action to eliminate such imminent threat.

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.

Enforcement Officer - The individual(s), agency or firm appointed by the Board of Supervisors to enforce the provisions 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 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 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.

Habitable - Premises fit for use as a dwelling place and in such a state that they may be occupied, not only with safety, but with reasonable comfort.

Junk - Junk shall include, but not be limited to:

- A. Any scrap, scrap iron, tin, brass, copper, lead, zinc and all other metals and alloy; any rubbish or reclaimable material; bones, glass, bottles, rags, paper, used cloth, used rubber, used rope and similar materials; old or used vehicles, 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 discarded material in general that may be turned to some use or that can be used for other purposes; anything fit to be discarded; trash, debris, odds and ends or rubbish of any kind; any other item; 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;
- E. Mobile/manufactured homes that are not in habitable condition; and
- F. Any abandoned or junked vehicles as so defined in this Ordinance.

Junk shall not include:

- A. Any solid or liquid waste 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, ongoing 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 contractor's equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in the

Township, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

**Junkyard** - An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The following shall also be considered junkyards:

1. The outside storage or deposit on a lot of two (2) or more abandoned or junked vehicles; and,
2. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition.

Vehicle sales lots managed by licensed vehicle dealers legally operated in the Township and storage areas for antique and collector vehicles with adequate screening approved by the Board of Supervisors shall not be considered junkyards.

**Nuisance** - Any unreasonable, unwarranted 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; that which annoys or disturbs one in possession of his property, rendering its ordinary use or occupation physically uncomfortable to him; everything that endangers life or health, gives offense to senses, violates the laws of decency, or obstructs reasonable and comfortable use of property; anything which essentially interferes with 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 an 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 snow, 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 premises in the Township.

**Person** - An individual, trustee, executor, other fiduciary, corporation, partnership, association, organization or other entity acting as a unit.

**Public Road** - Any street, highway, or alley maintained by the Township or by the Commonwealth of Pennsylvania.

**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, metals, mineral matter, glass, bottles, china, glass crockery, dust, and similar materials; and any other worthless materials, trash or item rejected or discarded as worthless.

**Screened** - Not visible from any adjoining or neighboring property, 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 Hickory, Lawrence County, Pennsylvania.

**Trash** - Worthless and/or discarded material; junk.

**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 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. Vehicle or Equipment Repair/Towing Operation - An establishment legally operating in the Township and engaged in the service and/or repair of vehicles, including but not limited to, auto body shops, repair garages, truck repair garages, towing companies and agriculture equipment repair.

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, 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; and any worthless or useless material that is produced as a byproduct or discarded as refuse.

## **SECTION 5 – 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 any of the following:
  1. Waste, rubbish or refuse, or garbage
  2. Junk, except at a bona fide junkyard meeting the requirements of the Township Ordinances.
- B. The outside storage or deposit on a lot of:
  1. Two (2) or more unregistered, abandoned or junked vehicles; or
  2. One (1) or more mobile/manufactured homes that are not in habitable condition; or
  3. Two (2) or more of any vehicle, including antique and collector vehicles, which are stored in a disorderly manner.
- C. This shall not prohibit the operation of a bona fide vehicle repair/towing business in compliance with all applicable Township Ordinances.
- D. Burning of any tires, tar products, plastic, waste, garbage, rubbish, refuse or any other material which emits any noxious or annoying fumes, smoke or gases, except for burning of leaves, brush, tree branches and yard trimmings conducted in accordance with the Township Burning Ordinance.
- E. Any dangerous, dilapidated building.
- F. Permitting any fencing or structure or the growth of any vegetation or tree 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 conceal any violation of this Ordinance. This shall not affect any requirement for screening provided in accord with this Ordinance or any other applicable Township Ordinances.
- G. Permitting or allowing any well, cistern, or similar structure to be, or remain uncovered.
- H. Pushing, shoveling or otherwise depositing snow or other material upon the shoulders or traveled portion of any public road.



- I. 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.
- J. 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; or which causes injury, damage, hurt, inconvenience, annoyance, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.
- K. Any other such action, non-action, situation or physical object or thing which by its nature constitutes a public nuisance or other nuisance in violation of the purpose and intent of this Ordinance.
- L. Stacking of Junk - Junk vehicles or major parts thereof shall not be stacked on top of any other junk vehicle or major part. No junk shall be stacked or piled to a height of greater than six (6) feet.
- M. Nuisances, Broken Glass Removal, Trunk Lids/Appliance Doors - All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin. All glass shall be removed from any broken windshield, window or mirror, and all trunk lids, appliance doors and similar closure devices shall be removed prior to the junk being placed in the storage area.
- N. Rubbish or refuse - Paper, rags, plastic materials, and other rubbish, refuse, waster and/or garbage shall not be stored outside and shall not be accumulated or allowed to remain on any premises.

#### Section 6 Waiver For Certain Vehicles

- A. Waiver for On-Site Utility Vehicles - The Enforcement Officer may grant a waiver for one (1) *on-site utility vehicle* (see definition in Section 4) per property which would otherwise be considered an *abandoned or junked vehicle* by Section 4 of this Ordinance, provided said vehicle is screened at times when it is not in use. (Note: An *on-site utility vehicle* as defined in Section 4 which is stored inside a building when not in use is not regulated by this Ordinance and does not require a waiver.)
- B. Conditions - In granting any waiver the Enforcement Officer may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.
- C. Procedure - All requests for waivers shall be in writing and shall include:
  - 1. A description of the type of vehicle and its use; and
  - 2. Details about how the vehicle will be stored when not in use.
- D. Action - If the Enforcement Officer denies the request, the applicant shall be notified, in writing, of the reasons for denial. In any case, the Board of Supervisors shall keep a written record of all actions on all requests for waivers.
- E. Fees - The applicant for any waiver shall pay a fee for the same as shall be established by Resolution of the Board of Supervisors.

#### SECTION 7 -- ENFORCEMENT OFFICER; NOTICE

The Board of Supervisors may appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this Ordinance.

- A. Inspections - The Enforcement Officer may inspect to determine whether any violations of this Ordinance may exist. 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 a violation.
- B. Notice - Whenever an inspection discloses that a violation exists, the Enforcement Officer and/or Board of Supervisors shall issue a notice to the owner and/or occupant of the premises. The notice, the form of which shall be adopted by Resolution of the Board of Supervisors:
1. Shall be in writing;
  2. Shall include a statement of the reasons it is being issued;
  3. Shall state a reasonable time to rectify the conditions constituting the violation, and may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance;
  4. Shall inform the owner that he has a right to a hearing before the Board of Supervisors in accord with this Ordinance; and
  5. Shall inform the owner that should he fail to comply with the order or request a hearing, the Board of Supervisors will order the correction of the violation, and in accord with this Ordinance, will assess any and all costs, expenses, and penalties incurred against the land on which the violation is located.
  6. Shall set forth the penalties prescribed for each violation.
- C. Service of Notice - Except in emergency cases, the notice shall be sent by registered mail or by certificate of mailing, or shall be personally delivered to the owner, and/or 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 upon the owner personally; or,
  2. A copy of the notice is sent by registered mail or by certificate of mailing 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,
  3. The owner is served with such notice by any other method authorized under the laws of the Commonwealth.
- 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.
- E. Emergency Cases (See definition in Section 4) - Whenever the Enforcement Officer and/or Board of Supervisors finds that an emergency exists which requires immediate action to protect the public health, welfare or safety, they may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to correct the violation and eliminate the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. The costs of such emergency correction shall be collected in the same manner as provided herein for other cases.

## SECTION 8 – 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 notice was served in accordance with Section 7. Upon receipt of such request, a time and place for such hearing shall be scheduled and advertised in accord 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. Unless an adjournment(s) is granted by the Board at the request of any person adversely affected, the hearing shall be commenced not later than forty-five (45) days after the day on which the request was received in the municipal office.

- B. Board Action - After such hearing the Board of Supervisors shall have thirty (30) days to sustain, modify or withdraw the notice. 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 ten (10) days after such notice is served. Time is of the essence.
- C. Appeal - Any aggrieved party may appeal the final order to the Court of Common Pleas of Lawrence County in accordance with the provisions of the Local Agency Law. Any final order of the Board of Supervisors shall not be stayed pending appeal, however, unless the aggrieved party receives an order staying such final order from the Court.
- 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 which fee shall not exceed five hundred dollars (\$500).

## SECTION 9 -- VIOLATIONS; ACTION TO REMOVE JUNK/RUBBISH

- A. Notice - Any person who shall keep or store upon his or other premises any junk and/or rubbish and/or refuse and/or waste and/or 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. Within fifteen (15) days after notice of such violation, such applicant or person shall remove and clear from the premises all junk and/or rubbish and/or refuse and/or waste and/or garbage thereon as defined by this Ordinance and/or shall take all necessary remedial action to remove and clear any such nuisance. The Board of Supervisors may specify a longer time period in cases where the amount or nature of the junk, rubbish, refuse, waste and/or garbage warrants the same.
- B. Township Removal - If such applicant or violator fails to comply within the specified time period, the Board of Supervisors may effect such removal and clearing, and the cost of the same, plus twenty (20) percent thereof, shall be paid by the applicant or violator. The Board of Supervisors may collect the said sum from the bond or other such security required by Section 6.2-E, of this Ordinance, or by any other means provided by Law. The Board of Supervisors may also take enforcement action under the terms of this Section 7 of this Ordinance. All property deemed junk, rubbish, refuse, waste and/or garbage and any other item constituting a nuisance 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 Board of Supervisors on behalf of the denied applicant or violator in accord with all applicable laws.

## SECTION 10 -- PENALTIES FOR VIOLATIONS

- A. Fine; Imprisonment - Any person, firm, partnership, corporation or other entity who or which shall violate any provision of this Ordinance shall, upon conviction thereof in summary proceedings before the District Justice, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) per day until said nuisance is removed, together with all costs of prosecution, plus reasonable attorneys fees of not less than five hundred dollars (\$500.00). In default of the payment of such fine and costs, it shall be the duty of the District Justice to commit such person to the County Jail until such time as the fine and costs shall be paid, not exceeding, however, a period of thirty (30) days.
- B. Costs - In accord with Section 9 of this Ordinance, the Board of Supervisors may effect the removal and clearing of any nuisance enumerated and declared illegal under the terms



of this Ordinance if the same is not affected by the violator. 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. (See Section 9 B.). The recovery of such costs of abatement, together with the penalty, shall be in addition to the penalty described in Section 10 A herein.

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 11 – 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 12 – CONFLICTS**

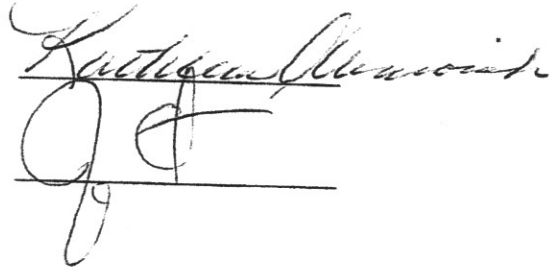
Should any provision of this Ordinance be in conflict with any other section, provision, regulation or standard of any other Township Ordinance, the more restrictive shall apply.

**SECTION 13 – 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 Hickory Township, Lawrence County, Pennsylvania, this 3<sup>rd</sup> day of Sept. of 2013.





ATTEST:

