

**ELK TOWNSHIP, WARREN COUNTY,
PENNSYLVANIA**

ORDINANCE NO. 62

NUISANCE AND JUNKYARD ORDINANCE

WHEREAS, the Board of Supervisors of Elk Township, Warren County, Pennsylvania deem it to be in the best interests and general welfare of the citizens and the residents of this Township to amend Ordinance 28; to prohibit and regulate the maintenance of junkyards; to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which 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 therefore.

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

ARTICLE I: GENERAL

Section 1 – Title:

← This Ordinance shall be known and may be cited as the Elk Township Nuisance and Junkyard Ordinance.

Section 2 – Definitions:

For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

1. "Township" is the Township of Elk, which is located within the confines of Warren County, Pennsylvania.
2. "Board of Supervisors" is the Board of Supervisors of Elk Township, Warren County.
3. "Owner" is a person owning, leasing, occupying or having charge of any premises within the Township.
4. "Person" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind. Whenever used in connection with prescribing or imposing penalties, 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 officer(s) thereof.
5. "Vegetation" is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.
6. "Nuisance" is the unreasonable, unwarrantable, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of person or property.
7. "Abandoned or Junked Motor Vehicles" is any vehicle in non-serviceable condition or without having both a current inspection sticker and current registration.
8. "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.
9. "Rubbish" is 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, paper, 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.

ARTICLE II: NUISANCES PROHIBITED

It shall be unlawful for any person to create or maintain any condition upon premises owned or occupied by them which could directly or indirectly cause a nuisance to the general public or residents of the Township. While not necessarily intended to be a comprehensive list, the establishment, maintenance, operating or continuance of any of the following at any time within the Township may be deemed to constitute a nuisance under the terms of this Ordinance.

A. The storage by an owner or lessee of more than one abandoned or junked motor vehicle.

B. The storage by an owner or lessee of any motor vehicle which is unable to move under its own power and which motor vehicle: has rusted, broken or sharp edges; missing tires or other components resulting in unsafe suspension of the motor vehicle; ripped upholstery or other conditions which could permit vermin harborage; has a leaking or damaged oil pan, gas tank or other fluid container; or such other defects which the Supervisors may upon investigation determine threaten the health, safety and welfare of the citizens of the Township.

C. 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 which 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. Permitting the growth of any grass, weeds, noxious weeds, or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, to conceal any rubbish, garbage, trash or any other violation of this ordinance.

6. Permitting or allowing any well or cistern to be, or remain, uncovered.

7. Any other condition which the Supervisors may upon investigation determine threaten the health, safety and welfare of the citizens of Elk Township.

D. 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 or other property within the Township.

2. A danger of collapse or 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 and which contains garbage, junk or rubbish.

4. Any other condition which the Supervisors may upon investigation determine threaten the health, safety and welfare of the citizens of Elk Township.

E. The setting, maintenance, operation, conduct or permitting of the establishment and maintenance of fire, combustion or any manufacturing, commercial or other process or activity which is or shall be accompanied by periodic or occasional generation or emissions of smoke, sparks, ash particles, burned sawdust and debris, or dust, or the creation and spreading of ash, debris, dust and like material on surrounding or adjacent property to the annoyance, disturbance and detriment of adjoining property owners, residents, passers-by and the traveling public. Notwithstanding anything to the contrary contained herein, this provision shall not be construed or interpreted to prohibit the use of wood burning stoves, boilers, fireplaces or other appliances that are operated for the purpose of generating heat for residential or commercial structures provided that

such facilities are otherwise operated in compliance with this Ordinance and all other local, state and federal laws, rules, requirements and regulations.

F. Any dog which by frequent or habitual barking, howling, screeching, yelping or baying, or which molests passersby, chases vehicles or attacks other domestic animals, or which disturbs the quiet or endangers the comfort, repose or health of any person or the community.

G. The playing or amplification of music by any manner including home stereos, vehicular sound systems and portable "boom boxes", to beat any drum or drums, blow any horn or horns, or otherwise make any unusual noise, disturbing the peace, which can be heard a distance of 150 feet from its source or such person's property line or; for any person to make, continue or cause to be made or continued any unnecessary or unusually loud noise which annoys, disturbs, injures or endangers the comfort, health, safety or peace of others.

ARTICLE III: PROVISION FOR JUNKYARDS

Notwithstanding the provisions of Article II hereof, junk or motor vehicles which would constitute nuisances under Article II hereof may be stored or maintained within the jurisdiction of the Township, in junkyards established in accordance with the terms of this Article III.

Section 1 - Limitation of Contents:

No junkyard shall contain materials or objects other than motor vehicles and junk as defined herein.

Section 2 - Licenses Required:

Except as otherwise provided herein, no person shall, within the Township, establish, own, operate or maintain a junkyard without having been issued a license by the Township as required by this Ordinance for such purpose. The license shall be issued

for a twelve-month period beginning on the date of issuance. Each license must be renewed annually on or before the anniversary date of original issuance.

Section 3 - Application for License:

The license provided for in this Ordinance may be issued by the Supervisors after written application shall have been made by the person desiring to be licensed. The license shall state the name of the person licensed and the premises upon which the junkyard is to be maintained. Such license shall be posted conspicuously upon the premises licensed thereunder.

The written application for license shall be accompanied by a form, every question of which must be answered, which form will be supplied by the Township. The applicant shall also submit therewith a plot of the premises used or to be used in connection with such license and such plot shall contain the location of the property lines, structures erected or to be erected thereon and structures erected on others' premises and situate within one hundred (100) feet of the perimeter of the premises for which the junkyard permit is sought.

Section 4 - Issuance of Permit:

Upon receipt of an application by the Supervisors, the Supervisors shall issue a permit or shall refuse to issue a permit to the person applying therefor after an examination of the application and taking into consideration the suitability of the property proposed to be used for the purpose of the permit, the character of the properties located nearby, and the effect of the proposed use upon the Township, both economic and aesthetic. In the event the Board shall issue a permit, it may impose upon the permit and the person applying therefor such terms and conditions in addition to the regulations herein contained and adopted pursuant to this Ordinance as may be deemed necessary to carry out the spirit and intent of this Ordinance.

Section 5 - License Fee:

A license fee in the amount of One Hundred Dollars (\$100) per year is established and shall be paid immediately upon the issuance or renewal of a license. Said license fee may be amended, from time to time, by Resolution of the Supervisors.

Section 6 - License Limitation:

No person licensed under this Ordinance shall, by virtue of one license, maintain more than one junkyard within the Township.

Section 7 - Transfer of License:

No license issued by the Township shall be transferable by the licensee to any other person unless such a transfer is authorized by the Township. Any person desiring to transfer a license shall notify the Township in writing, which notification shall be accompanied by the transferee's application for a license, as described in Article III, Section 4, of this Ordinance.

Section 8 - Transfer Fee:

In the event the Supervisors shall approve the transfer of a license, the transferee shall immediately pay to the Township a transfer fee of One Hundred Dollars (\$100). Said transfer fee may be amended, from time to time, by Resolution of the Supervisors.

Section 9 - Exception to Licensing Requirement:

Notwithstanding the provisions of Section 1 through 8 of this Article III, persons may, within the Township, establish, own, operate or maintain a junkyard without obtaining a license therefor, provided that said junkyard meets all of the other provisions of this Ordinance as well as the following requirements:

A. No junkyard permitted under this Section 9 shall contain materials or objects other than motor vehicles and junk as defined herein and in no event shall have an area utilized for all phases of the operation in excess of 1,600 square feet, which area shall be contiguous.

B. No junkyard permitted under this Section 9 shall contain more than one (1) Abandoned or Junked Motor Vehicle.

C. No junkyard permitted under this Section 9 shall contain junk or other materials stored or utilized in such a fashion so that it shall constitute a nuisance.

Section 10 - Regulations Applying to Junkyards:

In addition to any other requirements imposed under this Article III, every person maintaining or operating a junkyard under this Ordinance shall constantly maintain the licensed premises in accordance with any special provision imposed by the Supervisors and in the manner prescribed by this section and any subsequent regulations adopted by the Supervisors by Resolution or Ordinance.

A. Such premises shall at all times be maintained so as to not constitute a nuisance or a menace to the health of the community or of residents nearby or a place of breeding for rodents and vermin.

B. No garbage or other organic wastes or rubbish shall be stored in such premises.

C. Whenever any motor vehicle shall be received in such premises, all gasoline shall be drained and removed therefrom. Additionally, no flammable liquid shall be permitted to remain in any junked container, whether the container is a separate item or is an integral part of another item, at any time.

D. The manner of storage and arrangement of junk and motor vehicles, and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the premises, and to facilitate access for fire fighting or other emergency purposes.

E. All junk or motor vehicles kept, stored or arranged on the premises shall at all times be kept, stored and arranged within the junkyard in an orderly manner, and, if applicable, as described in the license issued hereunder.

F. No oil, grease, tires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within a junkyard at any time.

G. The junkyard shall be set back a minimum distance of fifty (50) feet from the right-of-way lines of all streets or roads and a minimum distance of twenty-five (25) feet from all other property lines. The area between the set-back line and right-of-way line, and all streets and roads and all other property lines shall be at all times kept clear and vacant.

H. Protective screening, fencing and/or evergreen screen plantings, which shall be opaque and a minimum of six (6) feet high shall be installed around the junkyard perimeter where it shall appear that:

1. Junk, motor vehicles or disposal operations shall be visible from adjacent highways or nearby residential or commercial properties, or
2. Dismantling or disposing operations producing odors, dust, fumes, noise, danger, unsightliness or like conditions shall be conducted upon the premises, or where it shall appear that the premises present accessibility to children and the public.

Said fencing or plantings shall be installed and gates installed therein in such a manner as to safeguard the premises from intrusion by children and the public and to shield the junkyard's contents from visibility by adjacent owners and the general public. The determination as to the need for fencing or plantings shall be made by the Supervisors at the time of the issuance of a license or at the time of renewal or transfer of a license.

I. Junk and motor vehicles shall not be piled higher than any required fencing or screening.

ARTICLE IV: ENFORCEMENT

SECTION 1 - PROCEDURE; WRITTEN NOTICE TO VIOLATORS REQUIRED:

A. Whenever it shall be reported or come to the attention of the Township that a nuisance may exist, the Supervisors or other person designated by the Supervisors shall investigate said alleged nuisance. Upon receiving the report of said investigation, the Supervisors may, by motion, declare any or all of the conditions defined or set forth in Article II of this Ordinance to be a nuisance in fact.

B. No further action shall be taken in the event the Supervisors shall fail to pass a motion declaring said condition(s) as a nuisance in fact.

C. Upon resolving that any of the above conditions is a nuisance, the Supervisors shall give the owner or lessee (or both) of the property upon which said nuisance is located and any person permitting the maintenance of such a nuisance, at least fifteen (15) days' notice to completely remove or abate the same. Said notice shall be served upon the owner in one of the following manners:

1. By making personal delivery of the notice to the owners; or
2. By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides, but if no adult member of the family is found, then to an adult person in charge of such residence; or
3. By fixing a copy of the notice to the door at the entrance of the premises in violation; or
4. By mailing a copy of the notice to the last known address of the owner by certified mail; or
5. By publishing a copy of the notice in a local newspaper of general circulation within Warren County, Pennsylvania, once a week for three (3) successive weeks. Such notice shall set forth in what respect such condition constitutes a nuisance, whether removal is necessary and required by the Township, or whether the situation can be corrected by repairs, alterations or by fencing or boarding, or in some way confining

and limiting the nuisance. Such notice shall require the owner to commence action in accordance with the terms thereof within twenty (20) days and thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

SECTION 2 - ENFORCEMENT; PENALTY FOR VIOLATION:

A. Enforcement hereof shall be by an action before a District Justice in the same manner provided for the enforcement of summary offenses. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa. R.Crim.P. No. 83(c) (relating to trial and summary cases). The Board of Supervisors hereby set a criminal fine in the amount of One Thousand (\$1,000.00) Dollars per violation, and the costs of prosecution, and, in default of payment of such fine and costs of prosecution, to undergo imprisonment of not more than thirty (30) days, provided, further, that each day's continuance of a violation shall constitute a separate offense.

B. In addition to or instead of invoking the penalties set forth in the preceding paragraph, the Supervisors may, in the event of any continued violations of this Ordinance which shall 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 and/or lessee of the premises. The costs of such removal, together with the penalties and attorney fees of up to One Thousand Dollars (\$1,000.00) may be levied against the property and recovered by the Township in the manner prescribed for the levying and collection of municipal liens.

C. The Township, by means of a complaint in equity, may compel the owner of the premises to comply with the terms of any notice of violation or seek any such other relief, including injunctive relief, as any such court of competent jurisdiction is empowered to afford.

ARTICLE V: SEVERABILITY; REPEALER; EFFECTIVE DATE

SECTION 1 – SEVERABILITY:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 2 – REPEALER:

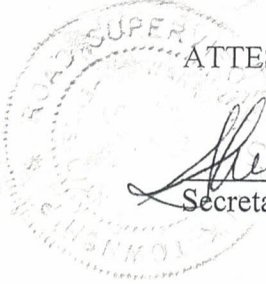
All Ordinances or parts of Ordinances are hereby repealed insofar as they may be inconsistent herewith.

SECTION 3 - EFFECTIVE DATE:

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

ENACTED AND ORDAINED into law by the Township of Elk, Warren County, Pennsylvania, this 27th day of JUNE, 2007.

ATTEST: {SEAL}



[Handwritten Signature]
Secretary

ELK TOWNSHIP SUPERVISORS

[Handwritten Signature]
[Handwritten Signature]
[Handwritten Signature]