

SHOHOLA TOWNSHIP
PIKE COUNTY, PENNSYLVANIA

ORDINANCE NO. 65A

AN ORDINANCE OF SHOHOLA TOWNSHIP, PIKE COUNTY, PENNSYLVANIA, DECLARING CERTAIN ACTIONS AS PUBLIC NUISANCES; REGULATING JUNK; PROHIBITING DANGEROUS PROPERTIES, STRUCTURES AND BUILDINGS AS PUBLIC NUISANCES AND PROVIDING FOR THE CORRECTION, REPAIR, VACATION OR DEMOLITION OF THE SAME; REGULATING CERTAIN TYPES OF BURNING, PROVIDING FOR THE ABATEMENT OF OTHER ACTIVITIES AND PROPERTY CONDITIONS WHICH CONSTITUTE PUBLIC NUISANCES; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

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BE IT ENACTED AND ORDAINED by the Board of Supervisors of Shohola Township, Pike County, Pennsylvania, as follows:

SECTION 1 -- SHORT TITLE

This Ordinance shall be known and may be cited as *THE SHOHOLA TOWNSHIP JUNK AND NUISANCE ORDINANCE*.

SECTION 2 -- PURPOSE

The purpose of this Ordinance is to declare certain actions as public nuisances; to prohibit the existence of dangerous buildings and structures; to regulate certain types of burning; and to abate other public nuisances in order to prevent the blight and deterioration of property within the Township and to abate public health hazards, and otherwise protect the general health, safety and welfare.

SECTION 3 - AUTHORITY

This Ordinance is ordained and enacted under the authority granted by §1529 and §1601 of the Pennsylvania Second Class Township Code, 53 P.S. §66529 and §66601.

SECTION 4 -- DEFINITIONS

Abandoned or Junked Vehicle - Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition. *Good operating and road-worthy condition* means a vehicle having a current and valid registration and a current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania. Registrations and inspections which have been expired for less than sixty (60) days shall be considered current for the purposes of this definition.

Agricultural Operation - An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production.

Antique Vehicle - Any vehicle twenty (20) years or older which has been restored to good operating and road-worthy condition. (See definition of good operating and road-worthy condition.)

Attractive Public Nuisance - A condition of property which may reasonably be construed to be a source of danger to the persons who may reside or otherwise be on the premises, or who may, by reason of something which may be expected to attract or entice them, come to the premises.

Building - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature.

Burning - Any process which involves the use of an open flame or intense heat including but not limited to, uncontained fires, contained fires, any manufacturing and commercial process involving burning, and incinerators.

Continuous (as related to dog nuisances) - Uninterrupted, unbroken and persistent or so persistently repeated at short intervals as to constitute virtually an unbroken series.

Excessive (as related to dog nuisances) - Substantially greater than what is commonly considered usual or common barking by a dog.

Dangerous Premises - Any building, structure or property which has any or all of the following defects:

- A. Any structure which shows damage or deterioration to the supporting member or members, or damage or deterioration to the non-supporting enclosing or outside walls or coverings so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
- B. Any structure which has improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which has insufficient strength to be reasonably safe for the purpose used;
- C. Any structure which has been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
- D. Any structure which is so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness, disease or injury, so as to be detrimental to the public health, safety or general welfare;
- E. Any structure which has parts which are so inadequately attached that they may fall and injure, occupants, property or members of the public;

- F. Any structure which lacks illumination, ventilation or sanitation facilities or because of another condition is unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public;
- G. Any building, structure or property which because of its location or due to an accumulation of garbage or rubbish is unsanitary, or otherwise dangerous, to the health or safety of the public;
- H. Any building, structure or property which can be construed as an attractive public nuisance.

Dwelling - Any building which is wholly or partly used or intended to be used for living by human occupants.

Dwelling Unit - Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living by human occupants.

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.

Enforcement Officer - The individual(s), agency or firm appointed by the Shohola Township Board of Supervisors to enforce the provisions of this Ordinance, including any and all duly appointed Assistant Enforcement Officers.

Exterminate - To control and eradicate insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

Fire - The phenomenon of rapid self-sustaining chemical reaction (oxidation) usually accompanied by the evolution of light and heat.

Garbage - Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Good Operating and Road-Worthy Condition - A vehicle having a current and valid registration and a current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania. 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. 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 accord with this Ordinance, 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 used and discarded materials, including but not limited to, waste paper, rags, metal, building materials, house furnishings, machines, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The outside storage or deposit on a lot of more than two (2) vehicles which are not in *good operating and road-worthy condition* shall be considered a junkyard. Agricultural vehicles such as tractors, mowers, etc. which are utilized as part of an active on-going farming operation and contractors construction equipment shall be exempt from this provision.

Lot - A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

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.

Occupant - The person owning, leasing, renting, occupying or having charge, care, custody or control of any premises in Shohola Township.

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

Owner - The person who, alone or jointly or severally with others is the owner of record of the premises as filed with the Pike County Recorder of Deeds. In the case where an owner is represented by an agent, including but not limited to a manager, executor, executrix, administrator, administratrix, or guardian of the estate of the owner, such person thus representing the actual owner shall be bound to comply with the provisions of this Ordinance and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Owner (as related to dog nuisances) - When applied to the proprietorship of a dog, includes every person having a right of property in such dog, or has it in his care, and every person who permits such dog to remain on or about any premises occupied by said person.

Person: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other legal entity.

Premises or Property - A piece, parcel, lot or tract of land.

Rubbish - Combustible and non combustible waste materials including but not limited to, garbage, junk, tires, paper, rags, cartons, boxes, wood, rubber, leather, plastic, tin cans, metals, mineral matter, glass, crockery and dust, and similar materials.

Running at Large (as related to dog nuisances) - Upon any public or private street, alley, right-of-way, or upon property of another person, other than the owner, and not being accompanied by and under the restraint of a leash or other appropriate device of control so that it cannot stray beyond the premises on which it is secured, or under reasonable control of the owner or any other person having custody of said dog.

Township - Shohola Township, Pike County, Pennsylvania.

Unregistered Vehicle - Any motor vehicle or trailer that does not display a license plate with a current registration sticker and does not have a valid State safety inspection sticker. This term shall not apply to vehicles (such as licensed antique cars) for which State regulations do not require an inspection sticker. The term also shall not include motor vehicles displaying a license and inspection stickers that have each expired less than sixty (60) days previously.

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.

Vermin Infested - The presence, within or upon a premises, of any insects, rodents or other pests which constitute a public nuisance.

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 5 -- RESPONSIBILITY – NUISANCES DECLARED

It shall be the responsibility of the property owner and/or occupant of the premises upon which any public nuisance, as described in this Ordinance, is situated and/or occurring, jointly with the owner of any junk, rubbish, structure, building or other item which constitutes such public nuisance, to provide for the removal or abatement of any such public nuisance and the remediation of any environmental problems associated with the activity or property condition which constitutes the public nuisance. Any owner and/or occupant of property upon which a public nuisance is located or taking place, and/or any person who or which owns junk, rubbish, structures or buildings which constitute a public nuisance, and/or any person who or which owns or is engaged in conduct, which constitutes a public nuisance, shall be deemed to be in violation of this Ordinance, and shall be subject to the penalties and remedies prescribed herein.

The following are hereby declared to be public nuisances and shall be removed, disposed of, or corrected as herein provided:

- A. Junk - Any junk not stored in a junkyard in accord with the Township Zoning Ordinance or in a fully enclosed building.
- B. Vehicles - The outside storage or deposit on a lot of:
 - 1. Two (2) or more abandoned or junked vehicles.
 - 2. One (1) or more mobile/manufactured homes that are not in use as an approved dwelling.
- C. Unsanitary or Dangerous Material
 - 1. The accumulation of junk, garbage and/or rubbish which is unsanitary, or otherwise dangerous or detrimental to the health, safety, or general welfare of the occupants of the premises or the public.
 - 2. The existence or presence of any accumulation of garbage, refuse, rubbish, or animal or vegetable matter which may attract vermin and/or insects, or in which insect larvae and vermin such as rodents are capable of

breeding.

- D. Dangerous Structures - Maintaining or causing to be maintained any dangerous dwelling, structure or building, including, but not limited to, abandoned, vacant or unoccupied dwellings or buildings in a state of dilapidation or disrepair.
- E. Noise - Any noise source which due to intensity, frequency, duration, location, lack of shielding or other reason which causes injury, damage, hurt, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.
- F. Light - 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.
- G. Open Excavations - Allowing or permitting any excavation, material excavated or obstruction on or adjoining any highway, street, or road, to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.
- H. Animals - All stables, cattle yards, hog, sheep or cow pens or yards for poultry or other animals permitted by the owner thereof or the person responsible therefor to be in such a condition as to become offensive, annoying or injurious to the public, except as may be protected by the Pennsylvania Right to Farm Law.
- I. Explosive Substances - All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.
- J. Water Quality - The pollution, or the existence of a condition or conditions which cause or threaten the pollution of any surface waters or groundwater in the Township.
- K. Dogs - Permitting any dog, whether licensed or not, to:
 - 1. Run at large in the Township.
 - 2. Remain in the open and to howl, yelp, or bark in a continuous or excessive manner for extended periods of time.
 - 3. Cause ongoing annoyance to the citizens, residents, or other persons by continuous or excessive barking, yelping, howling, or other similar offensive noise for extended periods of time or by molesting pedestrians and motorists.
 - 4. Molest or injure any human being by biting, jumping on, knocking down or attacking said human being.
- L. Burning - Engaging in, allowing or permitting any burning in violation of this Ordinance or any other Township Ordinance regulating burning.
- M. Others - Any other such action, non-action, condition, situation or physical object which by its nature is deemed by the Enforcement Officer to constitute a public nuisance under the terms of this Ordinance.

SECTION 6 – JUNK

It shall be considered a public nuisance and a violation of this Ordinance to accumulate junk, unless otherwise permitted by Township Ordinances or in a fully enclosed building. Any violation of the Shohola Township Zoning Ordinance, as amended, which is related to junk shall be deemed a public nuisance and a violation of this Ordinance.

SECTION 7 – DANGEROUS PREMISES

Any dangerous premises, as defined in §5, is hereby declared to be a public nuisance, and shall be repaired, improved, vacated or demolished as required by this Ordinance.

Section 7.1 – Standards for Repair, Improvement, Vacation or Demolition

The following standards shall be followed in substance by the Enforcement Officer in ordering repair, improvement, vacation or demolition:

- A. Repair/Improve - If the dangerous premises can reasonably be repaired or improved so that it will no longer exist in violation of this Ordinance, it shall be ordered to be repaired or improved.
- B. Vacate - If the dangerous premises is in such condition as to make it dangerous to the health, safety or general welfare of its occupants or the public, and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days, as is reasonable.
- C. Habitation - No premises which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Enforcement Officer. The Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.
- D. Demolition - If a dangerous building is damaged, decayed, or deteriorated so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public, and if such dangerous building cannot be repaired so that it will no longer be in violation of the terms of this Ordinance; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this Ordinance or any other local or state regulations, it shall be ordered to be demolished.

Section 7.2 – Duties of Enforcement Officer

- A. Inspection - The Enforcement Officer may, in accord with §10,A, inspect any premises, building or structure to determine whether any conditions exist which render such premises dangerous within the terms of this Ordinance.
- B. Action - Whenever an inspection discloses that a premises has become a public nuisance, the Enforcement Officer shall prepare a report detailing the observed defects as set forth in §7.1, and if the premises can be repaired or improved or must be demolished and removed. The Enforcement Officer shall issue a written notice to the owner and/or occupant as set forth in §10 of this Ordinance.

Section 7.3 – Removal of Notice Prohibited

No person shall remove or deface the notice of a dangerous premises except as provided in §7.1.

Section 7.4 – Emergency Cases

Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he 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 meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Enforcement Officer, shall be afforded a hearing in accord with §10 as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Ordinance have been complied with, the Enforcement Officer shall continue such order in effect, or modify or revoke it. The costs of such emergency repair, improvement, vacation or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

SECTION 8 – COMPLAINTS

Any person may file a complaint in regard to any suspected violation of this Ordinance with the Enforcement Officer. Any such complaint which is filed in writing, including the full name, address and telephone number of the

complainant, shall be investigated by the Enforcement Officer, who shall record receipt of the said complaint and report thereon. The investigation of all other complaints shall be at the discretion of the Enforcement Officer.

SECTION 9 – BURNING

All burning shall comply with all applicable Township Ordinances and the following:

Section 9.1 – Prohibited Material

All waste products shall be disposed of in accord with Pennsylvania Department of Environmental Protection Rules and Regulations; and, the burning of any of the following materials shall be prohibited in Shohola Township:

- A. Solid or liquid household waste except for readily combustible wood and paper products.
- B. Animal matter.
- C. Plastic or styrofoam.
- D. Any offal, by-products or waste materials generated by any production process.
- E. Waste oil or petroleum products.
- F. Tires.
- F. Any other material the burning of which can produce noxious or hazardous smoke or fumes.

Section 9.2 – Contained Fires for Household Waste

- A. The burning of readily combustible household waste not prohibited by §9.1 of this Ordinance shall be conducted only in a non-combustible container in such location and of a design to prevent the spreading of the fire.
- B. Any such household waste burned must be generated only upon the premises as part of the normal residential use.

SECTION 10 – ENFORCEMENT OFFICER; NOTICE

The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this Ordinance. The Board of Supervisors may also appoint one or more Assistant Enforcement officers who shall have all authority of the Enforcement Officer.

- A. Inspections; Permission - The Enforcement Officer may inspect any premises to determine whether any violations of this Ordinance exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner and/or occupant for the same. If the Enforcement Officer is unable to obtain such permission, the Enforcement Officer shall have the authority to conduct the necessary inspection of the premises in accord with this Ordinance and the applicable laws of the Commonwealth.
- B. Consultation - In carrying out any of the duties authorized by this Ordinance, the Enforcement Officer, may consult with the Township Engineer or any other professional designated by the Board of Supervisors.
- C. Notice of Violation - Whenever an inspection discloses that a violation exists, the Enforcement Officer shall issue a notice of violation to the owner and/or occupant of the premises. The notice:
 - 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 and/or occupant that should he fail to correct the violation as required by the notice, he will be subject to the enforcement remedies and/or actions to abate the nuisance provided in §11.
- D. Service of Notice - Except in emergency cases, the notice shall be sent by registered mail or by certificate of

mailing, or personally delivered to, the owner and/or the occupant of the premises. Where the owner and/or occupant is absent from the Township, all notices shall be deemed to be properly served upon the owner and/or occupant if:

1. A copy of the notice is served upon the owner and/or occupant personally; or,
 2. A copy of the notice is sent by registered mail, by certificate of mailing, or by proof of mailing to the last known address of the owner and/or occupant, regardless of receipt, and is posted in a conspicuous place on or about the premises affected by the notice; or,
 3. The owner and/or occupant is served with such notice by any other method authorized under the laws of the Commonwealth of Pennsylvania.
- E. Emergency Cases (See definition in §4.) - Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, welfare or safety, he 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 11 -- VIOLATIONS; ENFORCEMENT REMEDIES; ACTION TO ABATE NUISANCE

- 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. Fine - Any person who has violated or permitted the violation of any provisions of this Ordinance shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit, and/or shall be committed to the Pike County Prison for a period not exceeding thirty (30) days. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative and other costs, interest and reasonable attorney fees collected for the violation of this Ordinance, shall be paid over to the Township.
- C. Other Remedies - The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- D. Abatement By Township and Recovery of Costs- In addition, if the owner and/or occupant or person in control of any dangerous premises, or act or condition constituting a public nuisance or violation of this Ordinance, fails to respond to a notice of violation directing the removal or abatement of the public nuisance or correction of the violation within the time limit prescribed by the Board of Supervisors shall be empowered to cause such work of abatement to be commenced and/or completed by the Township, the Township may enter a municipal lien upon the premises to recover the cost and expense thereof.

SECTION 12 – REPEALER

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION 13 – SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of Shohola Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 14 – MUNICIPAL LIABILITY

Any liability or damages resulting from activities or conditions constituting a public nuisance are the sole responsibility of the owner and/or occupant of the property, or the person or persons responsible for said activity or condition. The failure to enforce the terms of this Ordinance shall not constitute a cause of action against Shohola Township or its agents, officials or representatives.

SECTION 15 – EFFECTIVE DATE

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

ORDINANCE ORDAINED AND ENACTED this ____ day of _____, 2008, by the Board of Supervisors of Shohola Township, Pike County, Pennsylvania.

Steven Dellert, Supervisor

Henry Prigge, Supervisor

Eleanore Wall, Supervisor

ATTEST: _____