

ORDINANCE No. 2010 - 01

**AN ORDINANCE OF MIDDLECREEK TOWNSHIP, SNYDER COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES, STORING OR ACCUMULATING ABANDONED OR JUNKED MOTOR VEHICLES JUNK MATERIAL, ABANDONED OR UNOCCUPIED BUILDINGS OR PARTS OF BUILDING IN A STATE OF DILAPIDATION OR DISREPAIR ON PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP, PROVIDING FOR THE REMOVAL THEREOF ON 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 Middlecreek Township, Snyder 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 unlawful use of private or public property which causes injury, damage or hurt 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 Middlecreek Township, County, Pennsylvania, as follows:

**Section 1. 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.

A. **"Township"** is the Township of Middlecreek, which is located within the confines of Snyder County, Pennsylvania.

B. "**Board of Supervisors**" is the Board of Supervisors of Middlecreek Township, Snyder County.

C. "**Owner**" is a person owning, leasing, occupying or having charge of any premises within the Township.

D. "**Person**" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

E. "**Vegetation**" is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.

F. "**Nuisance**" is the unlawful use of public or private property which causes injury, damage or hurt to any neighbor as defined herein in the legitimate enjoyment of his reasonable rights of a person or property.

G. "**Neighbor**" is any person owning adjoining or adjacent Over Property or Under property. Property which is separated by a public road right-of-way fifty-five (55) feet or less in width shall be considered adjoining or adjacent.

H. "**Under Property**" is property containing 88,000 square feet or less in area.

I. "**Over Property**" is property containing more than 88,000 square feet.

J. "**Motor Vehicle**" is a vehicle which is self-propelled except an electric personal assistive mobility device or a vehicle which is propelled solely by human power or by an electric power obtained from overhead trolley wires, but not operated upon a rail.

K. "**Abandoned Motor Vehicle**" is a motor vehicle which (a) is physically inoperable and left unattended on a highway or other public property for more than 48 hours, (b) has remained illegally on a highway or other public property for a period of more than 48 hours, (c) is left unattended on or along a highway or other public property for more than 48 hours and does not bear a valid registration, a current certificate of inspection or an ascertainable vehicle identification number, or (d) has remained on private property without the consent of the owner or person in control of the property for more than 24 hours.

L. "**Junked Motor Vehicle**" is a motor vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards of the Pennsylvania Department of Transportation, to the extent that the cost of repairs would exceed the value of the repaired vehicle. The term does not include a vehicle that would qualify as an antique vehicle (manufactured more than 25 years prior to the current year) or classic vehicle (manufactured more than 15 years prior to the current year) under the Pennsylvania Department of Transportation regulations except for its lack of restoration or maintenance.

## **Section 2. COMPLAINTS - DANGEROUS STRUCTURES**

All or any written complaints of a Neighbor on all properties within the Township regarding any Nuisance as defined in this Ordinance shall be investigated by either the Board of Supervisors, or by the Township Ordinance Enforcement Officer and reported to the Board of Supervisors for their consideration. Regarding complaints of dangerous structures under Section 3.D. and 4.D., if the Board of Supervisors does not believe the structure is in a condition that warrants action by the Township, the person filing the complaint may, at his or her expense, submit a building inspector's report to support the complaint. The building inspector must be approved by the Township.

## **Section 3. NUISANCES DECLARED ILLEGAL ON PROPERTIES HAVING AN AREA OF 88,000 SQUARE FEET OR LESS:**

Nuisances, including, but not limited to the following, are hereby declared to be illegal for properties having an area of 88,000 square feet or less:

A. Storing or Accumulating the following:

1. Garbage, ashes, refuse or rubbish.

(a) Garbage: Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce; used kitty litter and feces of domestic pets. It shall be unlawful to place or permit to remain anywhere in the Township any garbage or other material subject to decay other than leaves or grass, excepting in a tightly covered container; excepting that a mulch heap is permitted, which is properly maintained for gardening purposes and does not materially disturb or annoy persons of ordinary sensibilities in the neighborhood. It shall be unlawful to any individual, firm or corporation to store more than 14 days of garbage as defined by this ordinance which may pose a potential health and safety problems to the community.

(b) Refuse/rubbish: Combustible trash, including paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, leaves, wood furniture, bedding; noncombustible trash, including metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including street sweeping; dirt, catch-basin dirt, contents of letter receptacles. It shall be unlawful to cause or permit to accumulate any dust, ashes or trash of such a material that it can be blown away by the wind anywhere in the township excepting in a covered container.

(c) Ashes: Residue from fire used for cooking and for heating buildings.

2. Junk Material, including, but not limited to, unused or abandoned machinery, equipment or appliances, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvageable materials, unless for resale, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Township, or by the Commonwealth of Pennsylvania.

B. Storing or accumulating abandoned or junked motor vehicles, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Township, or by the Commonwealth of Pennsylvania. All such abandoned or junked motor vehicles are presumed to be a nuisance under this ordinance unless the owner can establish with reasonable certainty that such vehicle is being used for a recognized business or personal use and that the said owner is taking all reasonable steps to shield such vehicle from public view and to minimize any threat to public health and safety from such use. All such vehicles must be moved in 60 days, or if at vehicle repair business, 90 days, if the vehicle is not properly shielded from public view.

C. Storing or accumulating antique or collector motor vehicles for restoration which are neither sheltered by a building, nor enclosed behind an evergreen or solid fence; or storing or accumulating in a non-orderly fashion antique or collector motor vehicles for registration, except such vehicles that are actively being used for a recognized business use.

D. Maintaining or causing to be maintained, any dangerous structure, including but not limited to, abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.

E. 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.

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

G. 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 by the Commonwealth of Pennsylvania, and allowing the same to remain thereon.

H. 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 barricades, temporary fencing or other protective materials.

I. Draining or flowing, or allowing to drain or flow, any water or drainage from any structure, onto a public highway, road, street, avenue, lane, alley or any adjacent property by means of diverting, concentrating, flowing overland, ditching or by any other means.

J. It shall be unlawful for any person, partnership, corporation or agent acting

independently or under the direction of the principal to deface any private or public buildings, structures, signs, banners, or vehicles within the township. Examples of Defacing shall include but not be limited to the following examples: application of paint, inks and dyes; affixing of any printed materials such as signs or posters; destruction or removal; defacing in any manner. All public area signs shall be removed promptly after the event for which the sign was placed.

**Section 4. NUISANCES DECLARED ILLEGAL ON PROPERTIES HAVING AN AREA OF MORE THAN 88,000 SQUARE FEET:**

Nuisances, including, but not limited to the following, are hereby declared to be illegal for properties having an area of more than 88,000 square feet. At the discretion of the Township Supervisors, on the recommendation of the Ordinance Enforcement Officer, nuisances for such properties may be enclosed or screened by evergreen or solid fence to shield from public view and to minimize any threat to public health and safety from such use.

A. Storing or Accumulating the following:

1. Garbage: Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce. It shall be unlawful for any individual, firm or corporation to store more than 14 days of garbage as defined by this ordinance which may pose a potential health and safety problems to the community.

2. Junk Material, including, but not limited to, unused or abandoned machinery, equipment or appliances, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvageable materials, unless for resale, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Township, or by the Commonwealth of Pennsylvania.

B. Storing or accumulating abandoned or junked motor vehicles, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Township, or by the Commonwealth of Pennsylvania. All such abandoned or junked motor vehicles are presumed to be a nuisance under this ordinance unless the owner can establish with reasonable certainty that such vehicle is being used for a recognized business or personal use and that the said owner is taking all reasonable steps to shield such vehicle from public view and to minimize any threat to public health and safety from such use. All such vehicles must be moved in 60 days, or if at vehicle repair business, 90 days, if the vehicle is not properly shielded from public view.

C. Storing or accumulating antique or collector motor vehicles for restoration which are neither sheltered by a building, nor enclosed behind an evergreen or solid fence; or storing or accumulating in a non-orderly fashion antique or collector motor vehicles for registration, except such vehicles that are actively being used for a recognized business use.

D. Maintaining or causing to be maintained, any dangerous structure, including but not limited to, abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.

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

F. 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 by the Commonwealth of Pennsylvania, and allowing the same to remain thereon.

G. 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 barricades, temporary fencing or other protective materials.

H. Draining or flowing, or allowing to drain or flow, any water or drainage from any structure, onto a public highway, road, street, avenue, lane, alley or any adjacent property by means of diverting, concentrating, flowing overland, ditching or by any other means.

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#### **Section 5. WRITTEN NOTICE TO VIOLATORS REQUIRED:**

Whenever a condition constituting a nuisance is permitted or maintained, the Board of Supervisors shall cause written notice to be served upon the owner by one of the following manners:

A. By making personal delivery of the notice to the owners; or

B. 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

C. By fixing a copy of the notice to the door at the entrance of the premises in violation; or

D. By mailing a copy of the notice to the last known address of the owner by certified mail; or

E. By publishing a copy of the notice in a local newspaper of general circulation within Snyder 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 provisions of Section 3.F., 3.G., 3.H., 4.E., 4.F., or 4.G. is violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

**Section 6. PENALTY FOR VIOLATION:**

This Ordinance regulates building, housing, property, maintenance, health, fire, public safety, air or noise pollution, and shall be enforced pursuant to 53 P.S. §56601(c.1)(2).

A. Enforcement thereof shall be by an action before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa. R. Crim. P. No. 454(c) (relating to trial and summary cases). The Board of Supervisors hereby set a criminal fine in the amount of not less than Three Hundred (\$300.00) dollars nor more than 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 Ten (10) days, provided, further, that each day's continuance of a violation shall constitute a separate event.

B. The Board of Supervisors may direct the removal, repair, or alterations, as the case may be, to be done by the Township and to certify the costs thereof to the Township solicitor, the cost of such removal, repairs or alterations shall be a lien upon such premises from the time of such removal, cutting, repairs and alterations which date shall be determined by the certificate of the person doing such work, and filed with the Township Secretary.

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 as any such court of competent jurisdiction is empowered to afford.

**Section 7. 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,

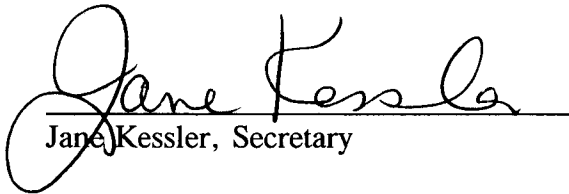
**Section 8. EFFECTIVE DATE:**

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

**ENACTED AND ORDAINED** into law by the Township of Middlecreek, Snyder County, Pennsylvania, this 16<sup>th</sup> day of August, 2010.

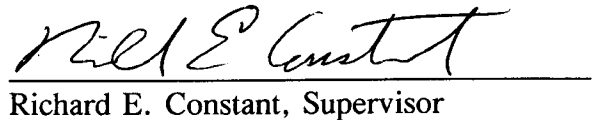
**MIDDLECREEK TOWNSHIP  
BOARD OF SUPERVISORS**

**ATTEST:**

  
Jane Kessler, Secretary

  
Donald S. Athey, Chairman

  
Carl A. Landis, Supervisor

  
Richard E. Constant, Supervisor

(Township Seal)