

LACKAWAXEN TOWNSHIP'S PROPOSED NUISANCE ORDINANCE:
AN ORDINANCE OF LACKAWAXEN TOWNSHIP, PIKE COUNTY, PENNSYLVANIA,
DECLARING CERTAIN ACTIONS AS PUBLIC NUISANCES; REGULATING JUNK;
PROHIBITING DANGEROUS STRUCTURES AND BUILDINGS AS PUBLIC NUISANCES
AND PROVIDING FOR THE CORRECTION, REPAIR, VACATION OR DEMOLITION OF THE
SAME; 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 Lackawaxen Township,
Pike County, Pennsylvania, as follows:

SECTION 1 -- SHORT TITLE

This Ordinance shall be known and may be cited as THE LACKAWAXEN TOWNSHIP
NUISANCE ORDINANCE.

SECTION 2 -- PURPOSE

2.1 The purpose of this Ordinance is to declare certain actions as public
nuisances; to prohibit the existence of dangerous buildings and structures; 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.

2.2 Lackawaxen Township has created an Agricultural Security Area (ASA) under
the PA Agricultural Area Security Law, 3 P.S. Section 901 et seq. It is not the purpose of
this Ordinance to limit or interfere with any Agricultural Operation as defined herein and

any activity or use involved in an Agricultural Operation that would, in other circumstances, be considered a nuisance as declared or defined in this Ordinance shall not be considered a nuisance.

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. Antique or collector vehicles which are in good operating and road worthy condition, but which are not required to be inspected or have current registrations shall not be considered abandoned or junked vehicles. Agricultural vehicles and equipment such as tractors, harvesters, mowers, which are not in operating condition but kept for parts for other vehicles and equipment, used as part of an active agricultural operation, shall not be considered junk vehicles, provided such vehicles or equipment is stored on the premises of the operation and is adequately screened, as further described in Section 2.2 above.

Agricultural Operation - Any enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock or livestock products and/or 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 - A motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications.(See definition of good operating and road-worthy condition.)

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.

Classic Vehicle- A motor vehicle, but not a reproduction thereof, manufactured at least 15 years prior to the current year which has been maintained in or restored to a condition which is substantially in conformity with manufacturer specifications and appearance .(See definition of good operating and road-worthy condition).

Dangerous Building or Structure - Any building or structure 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 building or structure, 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;

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.

Enclosed Building. - Any structure having a roof supported by fully enclosed weight-bearing walls and intended for the shelter, housing or enclosure of humans, animal, process, equipment, services, good or materials of any kind or nature. Temporary structures such as tents or tarpaulins, carports, truck trailers, boxes and other containers are not considered enclosed buildings.

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 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. A vehicle having either Classic or Antique vehicle registration plates shall not be considered junk vehicles, even if such vehicle does not have a current inspection sticker.

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, leather, plastics, , tin or aluminum cans, , glass, crockery, 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, cartons, and crates;
- 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.

Nuisance - Any unreasonable, unwarrantable or unlawful course of conduct or use of private or public property which causes or may cause injury, damage, hurt, annoyance, alarm, interference, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.

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.

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.

Township - Lackawaxen 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, tree 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.

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, including: the accumulation of junk, waste or garbage; the maintenance of a dangerous building or structure; the generation of light, noise or smoke that creates a nuisance; the improper keeping of animals; the pollution of surface or ground water or the creation of a condition that causes, or threatens to cause, pollution to surface or ground water; or such other activity or condition which constitutes a nuisance as defined in this Ordinance; 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 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. Three (3) 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 waste 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, animal or vegetable matter or wastes which may attract vermin and/or insects, or in which insect larvae and vermin such as rodents are capable of breeding and/or which creates an odor that is deemed a nuisance. Provided, however, that a controlled accumulation of food garbage, vegetation and soil, in a compost container or pit, for use as composted fertilizer shall not be considered a nuisance.
- D. Dangerous Building or Structure - 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. 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 therefore 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 and the Agricultural Area Security Law.
- H. Odor - Any activity which creates a strong smell and which causes discomfort or illness to adjoining property owners and is not part of an agricultural operation or other approved business or industrial activity.
- I.. 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.
- J. Smoke - Engaging in any activity, either from machinery, outside burners not operating to manufacturers specifications and requirements, vehicles, or activities, which

generates smoke on a regular basis, i.e. more than once a week and for more than 10 minutes at a time, and which results in such smoke leaving the premises from which it is generated and interfering with the use and enjoyment of adjoining or neighboring properties. Smoke emitted from a chimney of an existing home shall not constitute a nuisance.

K. 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, as defined herein, unless otherwise permitted by approval of a junkyard under the Township Zoning Ordinance, or if stored in a fully enclosed building. Any violation of the Lackawaxen Township Zoning Ordinance, as amended, which is related to junk shall be deemed a public nuisance and a violation of this Ordinance. Provided, however, that a property which has obtained a Certificate of Nonconforming Nuisance, as provided for in section 9 hereinbelow, and is in conformance with such certificate, shall not be considered in violation of this Section 6.

SECTION 7 – DANGEROUS BUILDING OR STRUCTURE

Any dangerous building or structure, 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 Code Enforcement Officer in ordering repair, improvement, vacation or demolition:

- A. Repair/Improve - If the dangerous building/structure 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 building/structure 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 building/structure 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 Code Enforcement Officer. The Code 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/structure 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 Code Enforcement Officer

A. Inspection - The Code 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 building/structure has become a public nuisance, the Code 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 Code 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 Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health and/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 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 Code 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 Code 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/structure shall be collected in the same manner as provided herein for other cases.

Section 7.5 – Certificate of Nonconforming Nuisance

If a property has obtained a Certificate of Nonconforming Nuisance, as provided for in section 9 hereinbelow, and is in conformance with such certificate, it shall not be considered in violation of this Section 7.

SECTION 8 – NOISE

8.1 - Definitions:

A-weighted noise level: A single number measurement of a noise level that approximates the human ear's response to an equal-loudness contour of 40 phons.

Environmental noise level: The equivalent continuous noise level measured at any specified point which is representative of the noise level of that environment.

Equivalent continuous noise level (ECNL): The constant A-weighted noise level that would produce the same energy density exposure as a continuously varying noise level. ECNL is calculated from a series of measurements by the following formula:

where L_i is an A-weighted noise level, and t_i is the time over which that level occurs, or, for measurements taken over an equal, fixed time interval:

Intentional radiator: A source of sound, or noise source, which is designed or operated with its primary function being to produce sound. For example, sirens, air horns and loud speakers are all intentional radiators.

Noise source: A single piece of equipment, or a collection of equipment under the control and operation of a single entity, that produces noise as a consequence of its operation. A collection of equipment may not necessarily be connected or related, if they may be operated simultaneously.

Suspect source: A noise source that may be in violation of this ordinance, identified by the nature of sound or a correlation with the times of operation and the alleged violation.

Unintentional radiator: A source of sound, or noise source, which is not designed or operated with its primary function to produce sound, but which does produce sound as an unintentional byproduct of its operation. For example, chain saws, wood chippers, vacuum cleaners, leaf blowers, sand blasting and rock crushers are all unintentional radiators.

8.3 - NOISE

No person shall operate equipment of any type that produces a noise level that can reasonably be expected to interfere with normal residential activities on another property, except for those Exceptions set forth in Subsection 8.7 below. No noise source shall be found to be in violation of this standard unless the operation of the noise source causes an increase in the environmental noise level of at least 5 dB.

8.4 - Standards

The levels based on recommendations by the U.S. Environmental Protection Agency, Office of Noise Abatement and Control in the report "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety", March 1974, Report No. 550/9-74-004, are:

Daytime (6 AM to 7 PM) outdoor ECNL - 63 dB

Evening (7 PM to 10 PM) outdoor ECNL - 50 dB

Nighttime (10 PM to 6 AM) outdoor ECNL - 40 dB

8.5 - Measurements

The investigating officer shall measure the environmental noise level with the suspect source in operation. If the environmental noise level exceeds the standards, the investigating officer shall then order the suspect source secured and measure the environmental noise level without the source.

All noise level measurements shall be made using a sound level meter meeting American National Standard Specification for Sound Level Meters (ANSI S1.4-1983 (R2001)/ANSI S1.4A-1985 or the current revision of that standard) for Type 1 or Type 2 instruments. The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting.

Measurements of the background equivalent continuous noise level shall be made for the length of time the suspect source is in operation, but in any case shall not be less than one minute, and need not be any longer than five minutes. For manual measurements, the measurements shall be recorded every 10 seconds. For automatic recording devices, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

Measurements of the equivalent continuous noise level with the suspect source in operation shall be made for the length of time the suspect source is in operation, but in any case shall not be less than one minute, and need not be any longer than five minutes. For manual measurements, the measurements shall be recorded every 10 seconds. For automatic recording devices, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

8.6 - Report

The code enforcement officer's report shall include:

- The instrument type, serial number, field calibration date, time, background noise level, calibration level and any adjustments made during the most recent field calibration of the sound level meter.
- The type and serial number of the field calibrator used at the last field calibration of the sound level meter.
- The location of the environmental noise level measurements, by latitude and longitude or by other descriptive terms that would allow someone unfamiliar with the complaint to locate, unambiguously, the measurement point on the ground, or on a map.
- The location of the suspect source, by latitude and longitude or by other descriptive terms that would allow someone unfamiliar with the complaint to locate, unambiguously, the measurement point on the ground, or on a map.
- A description of the suspect source in operation, sufficient to allow someone to recreate the conditions of the test.

- The weather conditions at the time of measurement, including, temperature, relative humidity, wind speed and direction, cloud cover, and an impression of the temperature gradient.
- For manual measurements:
 - a table of times and sound levels as reported on the meter
 - the calculated ECNL for each set of measurements
- For automatic measurements:
 - a notation of the time the instrument was started and the time stopped
 - the reported ECNL
- A list of witnesses or other persons present during the measurements.
- Any additional comments from the complainant, witnesses or the operator/owner of the suspect equipment or sources.

8.7 - Exceptions

The following sources or operations are exempt from the noise standards of this section, however, they may be subject to other sections of this ordinance, and they may be subject to regulation under other ordinances:

- lawn mowers, leaf blowers, chain saws, chippers, string trimmers, tillers and any other small yard or garden maintenance equipment when operated on residential property during Daytime and Evening hours as set forth in 8.4 above.
- all emergency equipment and emergency operations
- fixed equipment permitted under the Zoning Ordinance
- special and permitted activities operating under the conditions of their authorization
- unaided human voices

SECTION 9 – Certificate of Nonconforming Nuisance

9.1 Certain properties within the Township may qualify for a Certificate of Nonconforming Nuisance, to be issued by the Code Enforcement Officer, whereby the accumulation of junk and/or the maintenance of what could be considered a dangerous building or structure under this Ordinance, may be permitted on a property for which such certificate has been issued, provided it meets the requirements and standards set forth in Section 9.2 below.

9.2 REQUIREMENTS AND STANDARDS FOR CERTIFICATE OF NON-CONFORMING NUISANCE

- a) The property must contain a minimum of ten (10) acres.

- b) The junk or dangerous building/structure must not be visible from any public road, nor from any private road used for access to property owned by persons other than the applicant for the certificate, nor by any adjoining property owner(s).
- c) Any screening used to block the view of the junk or dangerous building/structure must be natural (i.e. earth in place or vegetation) and, if vegetation, dense enough year round to block the view of such junk or dangerous building/structure from the public road, private road or adjoining properties, as set forth in (b) above. Any vegetative screening must be maintained.
- d) In the case of any junked vehicles, all fluids, including gasoline, diesel, motor oil, radiator, brake, battery and transmission fluids, shall be drained from the vehicles.
- e) In the case of dangerous buildings/structures, the Code Enforcement Officer shall confirm that such building or structure poses no threat of harm, including surface or ground-water pollution, or create any vermin infestation problem, to adjoining property owners or the community.

9.3 APPLICATION FOR CERTIFICATE

Qualifying property owners may apply to the Township for a Certificate under this Section 9 without charge or fee, for a period of one (1) year from the date of the adoption of this Ordinance. After this one (1) year period, a property owner may also apply, but the Township shall charge a non-refundable fee for processing the application, which amount shall be established as part of the Township fee schedule. The Code Enforcement Officer shall have the discretion to grant or deny the Certificate based upon the requirements and standards set forth in Section 9.2 above.

9.4 TEMPORARY CERTIFICATES

The Township Supervisors, in their discretion, may issue a Temporary Certificate of Non-Conforming Nuisance for a temporary use or event. Application shall be made in writing to the Township at least forty-five (45) days prior to the proposed use or event and it shall be considered by the Supervisors at a public meeting. No Temporary Certificate shall be issued for any event generating noise between 11 p.m. and 6 a.m. In determining whether a Temporary Certificate shall be issued, the Supervisors shall evaluate whether there is any adverse impacts to the adjoining properties, the neighboring community and public health, safety and welfare.

Section 10 - 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 11 - CODE ENFORCEMENT OFFICER; NOTICE

The Board of Supervisors shall appoint the Code Enforcement Officer to 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 Code 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 Code Enforcement Officer shall obtain the permission of the owner and/or occupant for the same. If the Code Enforcement Officer is unable to obtain such permission, the Code 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.

A. Consultation - In carrying out any of the duties authorized by this Ordinance, the Code Enforcement Officer may consult with the Township Engineer or any other professional designated by the Board of Supervisors.

B. Notice of Violation - Whenever an inspection discloses that a violation exists, the Code 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.

C. 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.

D. Review By Supervisors – If an owner and/or occupant has received a Notice of Violation, as set forth in B. above, and wishes to challenge that Notice of Violation, he/they may request a review by the Board of Supervisors by submitting such request in writing within fifteen (15) days of the date of the Notice of Violation. Such request shall state the reason or reasons why the Notice of Violation is being challenged. A Request for Review shall operate as a stay on any further prosecution of the violation until the Supervisors have rendered a decision. A hearing on the Request for Review shall be held within thirty (30) days of receipt of the Request; the hearing to be held at a Supervisors Workshop meeting. A fee of \$150.00, payable to the Township, shall be submitted with the request for review, provided that in the event the violation decision is overturned by the Supervisors then the fee shall be refunded to the owner and/or occupant. This fee can be adjusted from time to time as needed by the board of supervisors at the annual Reorganization meeting as part of the Fee Schedule.

E. Emergency Cases (See definition in §4.) - Whenever the Code 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 12 -- 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 13 – REPEALER

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

SECTION 14 – 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 Lackawaxen 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 15 – 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 Lackawaxen Township or its agents, officials or representatives.

SECTION 16 – EFFECTIVE DATE

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

ORDINANCE ORDAINED AND ENACTED this ____ day of _____, 2009, by the Board of Supervisors of Lackawaxen Township, Pike County, Pennsylvania.