

**LOWER MIFFLIN TOWNSHIP**

**ORDINANCE NO. 2022-**

**AN ORDINANCE OF THE TOWNSHIP OF LOWER MIFFLIN, CUMBERLAND COUNTY, PENNSYLVANIA, WHICH RESCINDS AND REPLACES THE “JUNK ORDINANCE” OF 1975-2 AND PROHIBITS NUISANCES, STORING OR ACCUMULATING ABANDONED OR JUNK VEHICLES, JUNK MATERIAL, ABANDONED OR UNOCCUPIED BUILDINGS OR PARTS OF BUILDINGS 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 LOWER MIFFLIN Township, Cumberland 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 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**, Section 702 of the Second Class Township Code, 1933, May 1, P.L. 103, Article 7, 702(c)(1)(xxi), as amended (53 P.S. 65712), 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 LOWER MIFFLIN Township, Cumberland County, Pennsylvania, as follows:

Section 1

DEFINITION: For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings 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 LOWER MIFFLIN, which is located within the confines of Cumberland County, Pennsylvania.

2. “Board of Supervisors” is the Board of Supervisors of LOWER MIFFLIN Township, Cumberland County, Pennsylvania.

3. “Authorized Township Officials” The Township Codes Enforcement Officer, Township Supervisor, or other person designated by the Board of Supervisors are authorized to declare that a vehicle or collection of material meets the definitions of this Ordinance.

4. “Owner” is a person owning, leasing, occupying or having charge of any premises within the Township.

5. “Person” is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

6. “Vegetation” is any grass, weed, or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.

7. “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 or her reasonable rights of a person or property, and also, upon public or private land, any condition that creates a hazard or a condition which is offensive to the senses, including, but not limited to, visual, noise and smell. In addition, the conditions set forth in Section 2 are hereby declared to be part of this definition and declared to be a nuisance.

8. “Abandoned Vehicle” is any vehicle, regardless of whether it is operable or inoperable, with or without current registration plates, certificate or inspection or in such a condition as to be unusable, that is left upon a public road in violation of an ordinance prohibiting parking; or is left on a public road or public lands for longer than 72 hours; or is left on private property without the consent of the owner, occupant or lessee thereof for longer than 72 hours.

9. “Junk” are materials which have been used, discarded or abandoned and which shall include scrap metal or non-ferrous material, vegetative matter, building materials, and similar items. Agricultural waste and non-putrescible fill shall not be construed to be junk or refuse.

10. “Junk Motor Vehicle” is a vehicle in a wrecked, junked, stripped, or otherwise non-serviceable condition or without having both a current inspection sticker and current registration plate.

11. “Normal agricultural operations” are the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in the production and preparation for market of poultry, livestock and their products, and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is not less than ten (10) acres in area or if less than ten (10) acres in area, produces any such products, crops and commodities for value.

## Section 2

NUISANCES DECLARED ILLEGAL: Nuisances, including, but not limited to, the following, are hereby declared to be illegal unless part of “normal agricultural operations” as defined above:

A. Storing or accumulating the following for a period of thirty (30) days:

1. Garbage, food waste, trash, worthless or materials of no value, or rubbish;
2. Junk material, machinery, household appliances, household furnishings or

other debris and waste materials, and it shall be unlawful for the owner of such items, or the owner or occupant of any property, to allow, permit or suffer the same to be left upon any privately owned property;

B. Receiving or storing of garbage, food waste, trash, worthless or materials of no value, or rubbish brought from outside of the Township to be burned on any property;

C. Storing or accumulating more than three (3) junk motor vehicles, unless the property is being used as a validly licensed and permitted junkyard;

D. Storing or accumulating three (3) or fewer junk motor vehicles, unless said junk motor vehicle(s) are stored unenclosed in the back yard and maintained to ensure no hazardous materials leak into the ground for no longer than thirty (30) days, or may be stored longer than thirty (30) days if said junk motor vehicle(s) is kept within a fully enclosed building or kept behind a privacy fence that meets all proper setbacks;

E. It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of real property, to allow abandoned vehicles to remain on the property after they have been declared an abandoned vehicle by an authorized official;

F. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, **any foul or offensive water** or drainage from sinks, bathtubs, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or **any foul or offensive water or foul or offensive drainage of any kind**, from property. No drainage is permitted on any public highway, road, street, avenue, lane or alley, or from any property into or upon any adjoining property;

G. Draining or flowing, or allowing to drain or flow, **any water or drainage from within a dwelling** situated upon property along public highways, roads, streets, avenues, lanes or alleys in the township into or upon the cartway or traveled portion for said drainage by means of a drainage ditch or otherwise;

H. The burning of any item prohibited by the Pennsylvania Department of Environmental Protection, including but not limited to, tires, or tar products;

I. 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;

J. Permitting the growth of any grass, weeds, noxious weeds, or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, in excess of a height of twelve (12) inches or permitting any such grass, weeds, or any vegetation to throw off any unpleasant or noxious odor, or to conceal any rubbish, garbage, trash or other violation of this Ordinance, unless any such vegetation is located within wetlands or cannot be cut due to standing water or soil conditions;

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

L. 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 same to remain thereon;

M. Allowing or permitting any excavation, material excavated or obstruction on or adjoining any property, highway, street or road, to remain opened or exposed without the same being secured by a barricade, temporary fence or other protective materials;

N. Allowing or permitting within the Township or State Right-of-Way that would obstruct travel or drivers' line-of-sight views along any public highway, road, street, avenue, lane

or alley or the Township or State road crew's ability to do maintenance work. Examples of this include, but are not limited to, farm crops, fencing, privacy fencing, trees and bushes;

O. Allowing or permitting any vehicle or equipment to cause damage to any Township or State public highway, road, street, avenue, lane or alley.

### Section 3

WRITTEN NOTICE TO VIOLATORS REQUIRED: Whenever a condition that constitutes a nuisance is permitted or maintained, the Board of Supervisors shall cause written notice to be served upon the owner in any one of the following manners:

1. By making personal delivery of the notice to the owners;
2. By handing a copy of the notice at the residence of the owner to an adult member of the family with whom he resides, but if no adult member of the family is found, then to an adult person in charge of such residence at the time;
3. By fixing a copy of the notice to the door at the entrance of the premises in violation;
4. By mailing a copy of the notice to the last known address of the owner of record by certified mail; or
5. By publishing a copy of the notice in a local newspaper of general circulation within Cumberland County, Pennsylvania, once a week for two 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 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 ten (10) 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 the

circumstances require immediate corrective measures in the opinion of the Board of Supervisors, such notice shall require the owner to immediately comply with the terms thereof.

#### Section 4

PENALTY FOR VIOLATION: If the owner, after receiving due notice, refuses or fails to comply with the terms thereof:

1. The owner shall be guilty of a civil violation of this Ordinance, and shall, upon judgment thereof, pay a fine of not more than Six Hundred Dollars (\$600.00) and the costs and reasonable legal fees of suit, and in default of payment of such fine, costs and reasonable legal fees. **A violator shall be found to commit a separate offense for each ten (10) day period, beyond the initial ten (10) day period, that the violation has not been corrected. Any fine imposed hereunder shall include interest at 10% per annum compounded every ten (10) days that the violation exists.**

2. The Board of Supervisors may direct the removal, repair or alterations, as the case may be, to be done by the Township **or by the contracting of the work out by the Township to an independent contractor** and to certify the costs thereof to the Township Solicitor; the costs of such removal, repairs or alteration shall be charged to the owner of the property and become a lien upon such property 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.

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

Section 5

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 6

PRIOR ORDINANCE RESCINDED: The ordinance of 1975-2, known as the “Junk Ordinance” is hereby rescinded and replaced as of the effective date of this Ordinance.

Section 7

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

**DULY PRESENTED ENACTED AND ORDAINED** at a regular meeting of the Board of Supervisors of LOWER MIFFLIN Township, Cumberland County, held the \_\_\_\_ day of \_\_\_\_\_, 2022.

BOARD OF SUPERVISORS

LOWER MIFFLIN TOWNSHIP

\_\_\_\_\_  
Clinton Barrick, Chairman, Board of Supervisors

\_\_\_\_\_  
Franklin Oiler, Supervisor

\_\_\_\_\_  
Jacob Fealtman, Supervisor

ATTEST:

\_\_\_\_\_  
Brandi Lay  
Township Secretary

(Township Seal)