

**TOWNSHIP OF SOUTH MIDDLETON
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2021-07

**AN ORDINANCE PROMOTING THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC BY
DEFINING AND PROHIBITING CERTAIN CONDUCT AND ACTIVITIES WHICH ARE HEREIN CLASSIFIED AS
NUISANCES; PROVIDING PENALTIES; AND MAKING REPEALS**

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of South Middleton, Cumberland County, Pennsylvania, as follows:

Section 1. Short Title

This Ordinance shall be known and may be cited as the "South Middleton Township Nuisance Ordinance."

Section 2. Purpose and Intent

It is the purpose and intent of this Ordinance to protect the general public against risks to its health, safety, and welfare, and the menace and expense incident thereto, by certain activities, behavior, and conduct hereafter defined as nuisances.

Section 3. Construction

In the interpretation of this Ordinance, its provisions shall be construed as follows:

- A. Any term in the singular shall include the plural and *vice versa*, unless the context clearly otherwise requires;
- B. Any term in the masculine shall include the feminine, neuter, or other;
- C. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive;
- D. Words used in the present tense include the future, unless the context clearly otherwise requires;
- E. Any reference or statement indicating the "Township" taking action, in an administrative, enforcement, or other official capacity, shall be construed as the Township official, department, or committee, as designated by the Board of Supervisors, taking such an action; and
- F. Any reference to an existing ordinance, law, or statute shall refer to that current ordinance, law, or statute as now enacted or hereafter amended.

Section 4. Definitions

The following words or phrases when used in this Ordinance shall be defined as follows unless the context clearly otherwise requires:

- A. **Agriculture (or “agricultural operations”)**: As that term is defined in the Zoning Ordinance.
- B. **Board of Supervisors**: The governing body of the Township of South Middleton.
- C. **Building**: As that term is defined in the Zoning Ordinance.
- D. **Dwelling**: As that term is defined in the Zoning Ordinance.
- E. **Hazardous material**: As that term is defined in the Zoning Ordinance.
- F. **Light**: Any device that is the source of illumination, powered electrically, by combustion, or through any other means. The term includes, but is not limited to incandescent, strobe, sodium, mercury vapor, laser, or light emitting diode (LED).
- G. **Nuisance**: An unreasonable interference with a right common to the general public, such as any condition dangerous to health or safety or unlawfully obstructing the public in the free use of a public place.
- H. **Person**: Any natural individual, corporation, company, association, joint stock association, firm, partnership, sponsor, or any other public or private association or entity, or any designated responsible person as provided for herein.
- I. **Public grounds (or “public place” or “public property”)**: As that term is defined in the Zoning Ordinance.
- J. **Public utility**: A company, whether privately-run or operated pursuant to the *Pennsylvania Municipal Authorities Act (53 P.S. §§ 5601 – 5623, as amended)*.
- K. **Refrigerator**: An appliance or compartment which is artificially kept cool and used to store food, drink, or other material that must be kept at low temperatures. The term shall include an icebox, ice chest, freezer, cooler, or other like closed cabinet, box, or device that seals off or impedes the free circulation of air in and through the interior of the cabinet, box, or device.
- L. **Sign**: As that term is defined in the Zoning Ordinance.
- M. **Street**: As that term is defined in the Zoning Ordinance.
- N. **Township**: Township of South Middleton.
- O. **Township Manager**: The Township official created by *Ordinance No. 1994-07*, or his designee.
- P. **Vehicle**: Includes the following:
 - 1. **Abandoned vehicle**: A motor vehicle that meets any of the following conditions:
 - a. Is inoperable and left unattended on public property for a period of at least 48 hours;
 - b. Has remained illegally on public property for a period of 24 hours or more;
 - c. Is without a valid registration plate or certificate of inspection or title and is left unattended on or along a street for 48 hours or more; or
 - d. Any other motor vehicle that has been intentionally abandoned by its owner, whether on public or private land.The term shall not include vehicles and equipment used or to be used in construction or in the operation or maintenance of public utility facilities, which are left in a manner which does not interfere with the normal movement of traffic.
 - 2. **Junked vehicle**: Any motor vehicle that meets at least three of the following conditions:
 - a. Is an abandoned vehicle;
 - b. Is three years old or older;

- c. Is extensively damaged, such damage including but not limited to a broken window or windshield, or a missing wheel, tire, motor, or transmission;
 - d. Is apparently inoperable; or
 - e. Has a fair market value equal only to the approximate value of the scrap in it.
3. **Motor vehicle:** A road vehicle powered by an electric or internal combustion engine. The term shall include automobiles, buses, recreational vehicles, motorcycles, gators, mopeds, snowmobiles, all-terrain vehicles, go-carts, golf carts, tractors, or any other medium propelled by means other than muscular human power, including any device attached to and pulled by such a vehicle, such as a trailer or camper.
- Q. **Zoning Ordinance.** The South Middleton Township Zoning Ordinance, *Ordinance No. 2007-03, as amended.*

Section 5. Rubbish and Junk

It shall be unlawful for any person to throw, deposit, store, or dump any paper, trash, rubbish, ashes, junk, waste, garbage, or discarded materials of any kind including but not limited to refrigerators, electrical or gas ranges, worn-out tires, plumbing or electrical fixtures, building supplies, tree limbs, grass or other vegetation, in or on any private or public property, vacant or occupied, or to maintain any accumulations of such materials in or on any public or private property, vacant or occupied, that creates a condition which endangers the public's health, safety, or welfare. The accumulation of manure upon farms for use in connection with agricultural operations, and the accumulation of ashes on such farms for use as fill, shall not constitute a violation of this Ordinance.

Section 6. Abandoned and Junk Vehicles

It shall be unlawful for any person to store or deposit any abandoned or junk vehicle or part thereof in or on any street or public or private property, vacant or otherwise, except under any of the following conditions:

- A. The vehicle is completely enclosed in a covered building in a lawful manner where it is not visible from a public or private street, or other public or private property;
- B. The vehicle is stored or parked in a lawful manner on private property in connection with a business of a licensed dismantler/wrecker or a licensed vehicle dealer, provided the junk vehicle is stored in accordance with the Zoning Ordinance;
- C. The vehicle is owned by a collector of antique, vintage, historic, classic, or muscle and special interest vehicles, which is in the process of restoration, and which is recognized by a national vehicle organization, such as the Vintage Motor Car Club of America or Specialty Equipment Market Association. Such vehicle, when located in public view prior to or during the restoration process shall, upon request by the Township, be moved to a storage or work area not readily visible by the general public; or
- D. Up to three junk vehicles for which the owner can show current registration in his name, and for which he submits a declaration expressing his intent to bring the same into operating condition within one year from the date of the declaration, and which are not parked on a street or shared easement, and placed so as to minimize public view, and which are kept free of accumulating garbage and other health hazards.

Section 7. Lights and Lighting

Unless otherwise specifically regulated by the Zoning Ordinance, it shall be unlawful for any person to:

- A. Spot, flood, or otherwise shine a light so as to impede the safe movement of traffic upon any street;
- B. Illuminate any sign adjacent to any street with flashing, rotating, sequential, strobe, or otherwise moving lights, so as to interfere with the movement of traffic upon said street; or
- C. Utilize any form or configuration of lights so as to resemble a traffic signal, railroad signal, or any other form of simulated signal, visible to the travelling public upon any street.

Section 8. Noxious Draining

It shall be unlawful for any person to run foul or noxious liquids, raw sewage, washings, drainings, or other hazardous material from any manufacturing establishment, store, stable, dwelling, or shop into any gutter, along any street or sidewalk, into a stream or waterway, or into any storm drain. Such materials shall be properly disposed of in accordance with the law.

Section 9. Abatement

Any violation of any of the foregoing sections shall be deemed to be and constitute a public nuisance. Whenever it is determined that a person maintains such a nuisance, unless the nuisance constitutes an immediate danger to the public's health, safety, or welfare or provided for elsewhere, the Township shall serve notice upon the person maintaining such nuisance. The notice shall sufficiently describe the condition alleged and shall require the nuisance to be made safe, corrected, removed, or otherwise remediated to the satisfaction of the Township within ten days of the mailing of the letter. If the nuisance constitutes an immediate danger to the public's health, safety, or welfare, the nuisance shall cease or be remediated immediately upon order of the Township to do so. Should such person fail, neglect, or refuse to make such condition safe, corrected, removed, or otherwise remediated to the satisfaction of the Township, the Township may abate or cause to be abated said nuisance at the cost and expense of the responsible party.

Section 10. Penalties

- A. Any person violating any provision of this Ordinance shall be guilty of summary offense and, upon conviction thereof, pay a fine of not less than \$100 or more than \$1,000, together with costs of prosecution, and in default of payment therefore, be imprisoned for a period not exceeding 30 days. The minimum and maximum fine set herein shall be doubled each time the Township requests that an activity, conduct, or other prohibited action cease but the activity, conduct, or prohibited action continues in defiance of the order.

- B. Each violation of this Ordinance or any condition, prohibition, restriction, or other limitation shall be considered a separate violation, each subject to the fines set forth herein.
- C. In addition to any fines or liability herein set forth, a violator of this Ordinance shall further be subject to the Township for any and all damages caused to public property, and all costs or losses sustained or incurred by the Township arising from or associated with the permitted or unpermitted action or event, including but not limited to the cost of labor, fees, materials, and all other incidental or consequential costs or losses.

Section 11. Impact of Other Laws; Rights of Township Retained

This Ordinance shall in no way affect or nullify any more stringent or additional responsibilities, obligations, or penalties created or imposed by any other applicable ordinance or law, in particular those offenses defined in and prohibited by Title 18 of the Pennsylvania Consolidated Statutes. Furthermore, this Ordinance shall not affect any common law rights of the Township to abate a public nuisance.

Section 12: Severability

In the event that any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this Ordinance or other ordinances affected by this Ordinance, it being the intent of the Board of Supervisors that such remainder shall remain in full force and effect.

Section 13: Repealer

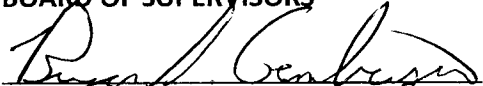
All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance, including but not limited to Ordinances Nos. 1973-02, 1993-06, 1993-09, and 1996-02 are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby.

Section 14: Effective Date

This Ordinance shall take effect five days after adoption.

ENACTED AND ORDAINED this 29 day of July, 2021.

**SOUTH MIDDLETON TOWNSHIP
BOARD OF SUPERVISORS**


BRYAN A. GEMBUSIA, Chairman

ATTEST

Sandra A. Quickel
SANDRA A. QUICKEL, Secretary

Shelly L. Capozzi
SHELLY L. CAPOZZI, ED.D, Vice Chairman

R. Duff Manweiler
R. DUFF MANWEILER, Member

Walter G. Reighard
WALTER G. REIGHARD, Member

Ronald P. Hamilton
RONALD P. HAMILTON, Member