

ORDINANCE NO. 2019 - 3

AN ORDINANCE OF THE TOWNSHIP OF SCHUYLKILL, COUNTY OF SCHUYLKILL, COMMONWEALTH OF PENNSYLVANIA, ADOPTING THE TOWNSHIP AWARENESS ACT OF 2019 RECOGNIZING THE QUALITY OF LIFE AND REGULATIONS OF MAINTENANCE OF PROPERTIES THAT CONTRIBUTE TO THE DETERIORATION OF PROPERTY VALUES AND GENERAL DISORDER IN THE COMMUNITY; PROVIDING FOR A TICKETING PROCESS AND SETTING PENALTIES FOR VIOLATIONS; AND PROVIDING FOR FINE, PENALTIES, AND RESTITUTION.

SECTION 1: PURPOSE

An effort has been made to consolidate into one ordinance common violations throughout the Township to make the Township residents aware under the Township Awareness Act of 2018 that "ticket" violations have been adopted. These violations are described in Section 3 and the ticketing process is described in Section 9. This Ordinance was written with the social structure of our Township in mind, geographical differences, as well as the economic challenges faced by the taxpayers of Schuylkill Township.

The purpose of this Ordinance is to promote the health, safety, and general welfare of the Township by providing guidelines that promote a clean environment for the citizens of Schuylkill Township.

SECTION 2: DEFINITIONS

The following words, terms, and phrases, when used in this Part, shall be defined as follows, unless context clearly indicates otherwise:

Abandoned House: A house will be considered abandoned if it is currently unoccupied and is not one of the following:

1. Under active construction (reference building permit);
2. For sale; or
3. For rent.

Exceptions include: Extenuating circumstances which are identified by the Code Enforcement Officer (as hereafter defined) or ownership in transfer.

Code Enforcement Officer: The appointed Code Enforcement Officer, as appointed by the Township Supervisors, and/or any police officer of this Township, may be designated by the Supervisors to enforce this Ordinance.

Garbage: Used or discarded material that is no longer of any use to the property owner.

Hazardous Waste: Any waste material or a combination of solid, liquid, semi-solid, or contained gaseous material that because of its quality, concentration, physical, chemical, or infectious characteristics may:

1. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating illness.
2. Pose a substantial present or potential hazard to human health or the environment when properly treated, stored, transported, or disposed of, or otherwise managed.

Indoor Furniture: Any and all pieces of furniture which are made for only inside use including, but not limited to upholstered chairs and sofas, etc.

Junked Vehicle: Any vehicle which presents a hazard or danger to the public or is a nuisance by virtue of its state of condition of disrepair.

1. Rusted and/or jagged metal on or protruding from the body of the vehicle;
2. Broken glass or windows on or in the vehicle;
3. Leaking of any fluids from the vehicles, or deflated or flat tires;
4. Storage or placement of the vehicle in an unbalanced condition, on concrete blocks, or other similar apparatus;
5. Harboring of rodents, insects, or other pests.

The foregoing examples are not inclusive of all conditions which may constitute a state or condition of disrepair. See also the definition of "Motor Vehicle Nuisance" which is incorporated herein by reference as part of the definition.

Lawn: Area of cultivated grass near a house.

Local Responsible Agent: Any person residing or working with the Township of Schuylkill designated to accept service on behalf of a legal owner or operator of a rental dwelling unit.

Motor Vehicle: Any type of mechanical device, capable or at one time capable of being propelled by a motor, in which person or property may be transported upon public streets or highways and including trailers or semi-trailers pulled thereby.

Does not include vehicles which are not licensed for transport on public roads, such as ATVs, go-karts, tractors, dirt bikes, utility vehicles, etc.

Motor Vehicle Nuisance: A motor vehicle with one or more of the following defects:

1. Broken windshields, mirrors, or other glass with sharp edges;
2. Broken headlamps, tail lamps, bumpers, or grills with sharp edges;
3. Unrepaired damage from an accident;

4. Protruding sharp objects from the chassis;
5. Missing doors, windows, hoods, trunks, or other body parts that are causing animal harborage;
6. Deflated or flat tires;
7. One or more open tires or tubes which are causing animal harborage;
8. Any vehicle suspended by blocks, jacks, or other such materials, in a location which may pose danger to the public, on which said vehicle is found. If making repairs, repairs must be completed within two (2) weeks;
9. Any excessive fluids leaking from vehicle which may be harmful to the public or the environment;
10. Disassembled body or chassis parts stored in, on, or about the vehicle;
11. Such other defects which the fire department determines to be a danger to the general public or property;
12. Motor vehicles parked, drifted, or otherwise located, which may interfere with the flow of pedestrian or automobile traffic or impede emergency efforts.

Notice of Violation: A written document issued to a person in violation of a Township ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

Nuisance: Any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, or welfare of citizens of the Township, or causes a blighting effect in Township neighborhoods. "Nuisance" shall also include "Public Nuisance" as hereinafter defined.

Owner: A person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality, as holding title to the property; or otherwise having control of the property, including the principals of a limited liability company or officer, director, or shareholder of a corporation if that individual is responsible for the management and control of the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person: Every natural person, firm, corporation, partnership, association, institution, business, group, organization, or legal entity.

Private Property: Any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to, or appurtenant to, such dwelling house, building, or other structure.

Public Nuisance: Any unsafe or unsanitary conditions or premises that presents hazard or hardship to other residents of Schuylkill Township as defined in this Ordinance.

Public Right-of-Way: The total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

Recreational Vehicles: A motor home, travel trailer, truck camper, camping trailer, or other vehicle or trailer, with or without motive power, designed or altered for human habitation for recreational, emergency, or other human occupancy.

Recreational Vehicle Nuisance: Any recreational vehicle as defined which is parked or left standing on any public street, park, avenue, alley, or public way within this Township. Recreational Vehicle Nuisance also includes any recreational vehicle which runs on electrical cord, extension cord, hose, cable, or other items across, above, or on the parkway, roadway or sidewalk from any property to a recreational vehicle parked on a public street, park, avenue, alley, or a public way, at any time; and/or making a sewer connection with a recreational vehicle for human habitation on any public street, park, avenue, alley, or public way within the Township.

Rubbish: Combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust, and other similar materials.

Sidewalk Area: The public right-of-way between the property line and the curb line or the established edge of the roadway.

Vegetation: Any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

Violation Ticket: A form issued by a Code Enforcement Officer to a person who violates a provision of this Ordinance. The violation ticket is an offer by the Township of Schuylkill extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator.

Weeds: Shall be defined as all grasses and vegetation which meet any of the following criteria:

1. Exceeds twelve (12) inches in height in managed areas in yards;
2. May conceal filthy deposits or serve as breeding places for mosquitos, other insects, or vermin;
3. May cause a public nuisance.

Weeds shall not include cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

Yard: An open space on the same lot with a structure.

SECTION 3. QUALITY OF LIFE VIOLATIONS

It is the general expectation for all Township residents that they maintain their properties in such condition that does not disturb their neighbors' quality of life.

Accordingly, a person, owner, or responsible person of such person or owner, shall commit a quality of life violation by any of the following:

1. Accumulation of Garbage, Refuse, and Junk. All exterior property and premises, and the interior of every structure, shall be free from accumulation of waste, trash, rubbish, or garbage that affects quality of life of other Township residents. Any active and licensed contractor, business owner, or corporation who maintains or operates a business with the Township of Schuylkill and utilizes any property owned by that contractor for storage of material, equipment, and other personalty associated with the operation of its business, shall be exempt from this Section.
2. Animal Maintenance and Waste/Feces Clean-up. Any person owning, harboring, or keeping any animal with the Township of Schuylkill shall not permit any animal waste or feces to remain on the person's property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. A person owning, harboring, keeping, caring for, or feeding any animal, must keep the animal under the person's control and supervision at all times and shall not permit the animal to leave the property of the person owning, harboring, keeping, caring for, or feeding the animal, unless securely leashed.
3. High Weeds, Grass, or Plant Growth. Grass/weeds shall be periodically maintained so that they do not exceed 12" in height within the lawn area of each property. Cultivated flowers, gardens, trees, and shrubs shall not be included as a violation of this Paragraph.
4. Motor Vehicles. A violation that meets the "junked vehicle" or motor vehicle nuisance, as well as the storing, parking, or placing of any unregistered, uninspected, inoperative, or unlicensed motor vehicle on any premises.
5. Storage Containers for Waste or Trash. The owner of every premises is responsible to store their waste/trash in a manner that does not present a hardship to their neighbor(s) or other Township residents or create a nuisance or health hazard. To prevent eyesores and unpleasant odors, all trash must be contained and all residents are required to use garbage bags and/or garbage containers to store trash and such garbage container shall have tight-fitting covers.
6. Abandoned House. If an abandoned house becomes a nuisance, the property owner is responsible to correct the violation. The property owner can surrender and deed over the property to the Township if the Township agrees, and assuming the owner cannot properly maintain the property. Abandoned houses must comply with the following:

- a. Must have a phone number posted on the property as emergency contact.
 - b. Grass must be trimmed in accordance with Subsection 3 above.
 - c. Be registered with the Township. If the Code Enforcement Officer has reason to suspect a home is abandoned, the owner must be notified.
 - d. Must be secure and any broken/missing doors and windows must be sealed.
 - e. Must remain free of graffiti.
7. Recreational Vehicle Nuisance. A violation that meets the definition of recreational vehicle and recreational vehicle nuisance as set forth in Section 2 definitions.

SECTION 4. AUTHORITY FOR ISSUANCE OF VIOLATION TICKET

Upon finding a violation as defined in this Ordinance, the Code Enforcement Officer(s) as defined may issue a Notice of Violation to the owner and/or occupant of the property at issue or to the individual(s) known to have violated this Paragraph.

SECTION 5. CODE ENFORCEMENT OFFICER

Enforcement of this Ordinance is the responsibility of the Schuylkill Township Code Enforcement Officer(s) as defined herein.

Any violation of the provisions of this Ordinance may be cause for a Notice of Violation to be issued to the violator, with reference to Paragraphs 6-7 hereinafter.

A. Requirements:

1. Any Code Enforcement Officer as defined herein; and,
2. Code Enforcement Officer's contact information must be posted outside the Township building.

B. Duties:

1. Issuing Notices of Violation;
2. Answer questions/inquiries from Township residents;
3. Provide report at monthly Township meetings; and,
4. Investigate complaints.

C. If an official complaint is filed, the Code Enforcement Officer is required to do the following:

1. Assess the nature of the complaint to determine if it is a legitimate Ordinance concern. If it falls outside the scope of this Ordinance, the Officer is required to pass the complaint onto the appropriate Township official;
2. Contact the property owner to inform them that a complaint has been received; and,
3. Observe the property in question.

- i. If the Code Enforcement Officer wishes to enter private property to observe the complaint issue, he/she must coordinate with the property owner. Property owner is responsible to escort the Code Enforcement Officer onto his/her property; and,
- ii. Code Enforcement Officer cannot enter the property without permission of the property owner. If property owner cannot be reached, reference the Absentee Owner Exception as set forth in Paragraph 6.

D. Appointment of Code Enforcement Officer:

1. Position to be filled during the first month of each year; and,
2. Candidate selection will be determined by Township Supervisors and Members of the Ordinance Subcommittee, if any exist.

SECTION 6. SERVICE

A Notice of Violation shall be served upon a violator by the following methods:

1. Notice of Violation is attached to the main entrance of property. A photograph taken by the Code Enforcement Officer depicting the Notice of Violation attached to the main entrance of the property shall be deemed to be proof of service;
2. Sending a letter with proof of delivery to the violator and/or personal service or delivery to the violator; and,
3. Absentee Owner Exception.

Relative to an Absentee Owner, if the property owner is not local or cannot be reached, the following applies:

- a. After three (3) attempts of notification by mail, and after sixty (60) days of no response, the Township may abate the violation.

SECTION 7. ABATEMENT OF VIOLATIONS

A. Violations. From the date of the issuance of the Notice of Violation, the property owner has five (5) business days to perform the following:

1. Correct the violation; or,
2. Make arrangements to have the violation corrected (Example: Violator schedules contractor to perform the necessary labor to correct the violation).

If, after seven (7) calendar days have passed from the issuance of the Notice of Violation and the property owner has not corrected the violation, or made proper notification to the Code Enforcement Officer, a ticket may be issued. The violator can avoid receiving a ticket by contacting the Code Enforcement Officer to commit to a reasonable plan of action that corrects the violation.

If a ticket has issued, the violator has seven (7) days from the date of issuance to correct the violation. If, after seven (7) calendar days have passed from the issuance of the ticket and the property owner has not corrected the violation, or made proper notification to the Code Enforcement Officer, a citation may be issued.

In extreme circumstances, the Township of Schuylkill reserves the right to abate the violation in question at the expense of the owner. Each of the following conditions must be met to justify abatement by Schuylkill Township:

1. Three (3) written Notices of Violation have been delivered to the violator via certified mail, with no response; and,
2. The violation causes a public nuisance.

B. Abatement Expenses. The violator will be responsible for costs associated with violation abatement. Schuylkill Township reserves the right to direct a contractor to perform the abatement of the violation in question. The contractor will submit a bill for their work to the Township of Schuylkill and the Township will forward these costs to the violator. The Township reserves the right to add a thirty (30%) percent processing fee in addition to the cost of the contractor.

SECTION 8. SEPARATE OFFENSE

Each day a violation continues or is permitted to continue will constitute a separate offense for which a separate violation ticket may be issued and fine imposed.

SECTION 9. FINES AND PENALTIES

Upon finding a violation, Enforcement Officer must issue a written Notice of Violation to the violator(s). (See Section 6) The Notice of Violation does not carry a fine/fee. If the violation is not corrected by the end of the warning period, the Code Enforcement Officer(s) can issue a ticket to the violator pursuant to Paragraph 7 and according to the fine/fee schedule set forth below.

For each offense subsequent to three (3) offenses of this Ordinance within a twelve (12) month period, amounts of violation tickets shall increase in the amount of \$100.00 for each subsequent offense after the three (3) offense referenced.

Any person who receives a violation ticket for any violation of this Ordinance may, within fifteen (15) days, admit the violation, waive a hearing, and pay the fine in full satisfaction.

Any person who violates this Ordinance shall pay a fine as set for the herein for each offense, plus all direct and indirect costs incurred by the Township for the clean-up and abatement of the violation.

Violation ticket fines are set forth hereinafter:

| Violation | Description | Fine 1 | Fine 2 | Fine 3+ |
|-----------|---|---------|---------|----------|
| QOL-001 | Accumulation of garbage, refuse, and junk | \$25.00 | \$50.00 | \$100.00 |
| QOL-002 | Animal maintenance and waste/feces clean-up | \$25.00 | \$50.00 | \$100.00 |
| QOL-003 | High weeds, grass or plant growth | \$25.00 | \$50.00 | \$100.00 |
| QOL-004 | Motor vehicles | \$25.00 | \$50.00 | \$100.00 |
| QOL-005 | Storage containers for waste or trash | \$25.00 | \$50.00 | \$100.00 |
| QOL-006 | Abandoned house | \$25.00 | \$50.00 | \$100.00 |
| QOL-007 | Recreational Vehicle Nuisance | \$25.00 | \$50.00 | \$100.00 |

SECTION 10. VIOLATION TICKET PENALTIES

If the person in receipt of a \$25.00 violation ticket does not pay the fine or request a hearing within fifteen (15) days, the person will be subject to a \$10.00 penalty for days sixteen (16) through thirty (30).

If the person in receipt of a \$50.00 violation ticket does not pay the fine or request a hearing within fifteen (15) days, the person will be subject to a \$25.00 penalty for days sixteen (16) through thirty (30).

If the person in receipt of \$100.00 or higher violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a \$50.00 penalty for days sixteen (16) through thirty (30).

Failure of the person to make payment or request a hearing within thirty (30) days, pursuant to Paragraph 12, of a violation ticket shall make the person subject to a citation for failure to pay.

If violations are continuous or egregious, Code Officials have the right to issue citations without first issuing tickets, provided notice has been given. Upon issuance of four (4) tickets for the same violation, the Township reserves the right for its Code Enforcement Officer(s) to issue citations for the fifth and subsequent offenses.

SECTION 11. CITATION FINES AND RESTITUTION

Any person, firm or corporation who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Ordinance, or any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction by a Court of law, be ordered to pay a fine of not less than one hundred (\$100.00) dollars for each offense, pay the costs of prosecution (including restitution of the fees expended by the Code Enforcement Official), and/or be subject to imprisonment of a term not to exceed ninety (90) days. The Court may also order the violator to make restitution to said real or personal property owner.

SECTION 12. APPEAL

A person in receipt of a violation ticket may appeal to the Code Enforcement Officer and Ordinance Subcommittee (minimum of three (3) members) by filing a request in writing within ten (10) calendar days of the date of the issuance of the violation ticket.

In order for an appeal to be deemed valid and a hearing date and time to be set, the following must be performed by the alleged violator requesting the appeal within ten (10) calendar days:

1. All paperwork, including the appropriate appeal form for the appeal must be submitted and complete within ten (10) calendar days from the date the violation ticket was issued;
2. Payment of the fine must be in full, which will be refunded within thirty (30) calendar days should the alleged violator win his/her appeal. The appeal hearing will be held before the Code Enforcement Officer and Ordinance Subcommittee (minimum of three (3) members) and they may uphold the appeal, deny the appeal, or may modify the violation ticket, and/or impose any associated costs, fines, or penalty amounts as they deem appropriate; and,
3. Any subsequent appeal will be made by the alleged violator to the Schuylkill County Court of Common Pleas within thirty (30) days from the date of the decision on the appeal by the Code Enforcement Officer and Ordinance Subcommittee (minimum of three (3) members).

SECTION 13. COLLECTIONS

At the discretion of the Township of Schuylkill and/or the Ordinance Subcommittee, if any, all tickets for which payment is not received either within forty-five (45) days of the date of the issuance of a ticket for which an appeal is not taken; or, within forty-five (45) days from the date of the denial of an appeal; or within forty-five (45); or, within forty-five (45) days of the date on which monies were paid by the Township of Schuylkill for the abatement of any violation, may be turned over by the Township to a collection agency.

SECTION 14. LIENS

At the discretion of the Township of Schuylkill and/or the Ordinance Subcommittee, if any, liens may be placed upon a property against which tickets were issued for which payment is not received within forty-five (45) days of the issuance thereof, or for which an appeal is not taken within thirty (30) days from the denial of such appeal, or the date on which monies were paid by the Township of Schuylkill for abatement of a violation and not paid within thirty (30) days of billing.

SECTION 15. SEVERABILITY

If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, subsection shall not be affected and shall remain in full force and effect.

SECTION 16. REDUNDANT ORDINANCES – REPEALED

Any ordinance or part of an ordinance conflicting with the provisions of this Ordinance shall be and the same are hereby repealed to the extent of such conflict.

SECTION 17. NON-EXCLUSIVE REMEDIES

The Penalty and Collection provisions of this Ordinance shall be independent, not mutually exclusive, separate remedies, all of which shall be available to the Township as may be deemed appropriate for carrying out the purpose of this Ordinance. The remedies and procedures provided in this Ordinance for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the Township in the case of a violation of any other Township ordinance, whether or not such ordinance is referenced in this Ordinance or whether or not an ongoing violation of such other ordinances is cited as the underlying ground for a finding of a violation of this Ordinance.

SECTION 18. ENACTMENT/EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage by the governing body as approved in the manner prescribed by law. This Ordinance and its effective date shall be acted upon at a duly convened public meeting.

ENACTED AND ORDAINED by the Board of Supervisors of Schuylkill Township on this 4th day of November, 2019.

SCHUYLKILL TOWNSHIP SUPERVISORS

BY: Charles Fayash
Charles Fayash, Supervisor

BY: Charles Hosler
Charles Hosler, Supervisor

BY: Frank Fabrizio
Frank Fabrizio, Supervisor

ATTEST:

Colleen Barrett
Colleen Barrett, Secretary