

**POLK TOWNSHIP, MONROE COUNTY, PENNSYLVANIA  
ORDINANCE NO. \_\_\_\_\_ OF 2019**

**AN ORDINANCE OF THE TOWNSHIP OF POLK, MONROE COUNTY, PENNSYLVANIA, TO REGULATE THE ACCUMULATION AND STORAGE OF JUNK AND/OR RUBBISH; THE ACCUMULATION AND STORAGE OF JUNK AND/OR UNREGISTERED VEHICLES AND EQUIPMENT; 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, TO PROTECT PROPERTY VALUES WITHIN THE TOWNSHIP AND TO ABATE PUBLIC HEALTH HAZARDS, AND OTHERWISE PROTECT THE GENERAL HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF POLK TOWNSHIP.**

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Polk Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows;

**SECTION 1. Short Title.** This Ordinance shall be known and may be cited as the Polk Township Nuisance Ordinance.

**SECTION 2. Definitions.** As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL OPERATION - the use of any parcel of land containing five or more acres for economic gain in the raising of agricultural products or livestock. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production.

ANTIQUÉ VEHICLE - any vehicle 25 years or older which has been restored to good operating and road-worthy condition. (See definition of "good operating and road-worthy condition.")

ASHES - residue from fire used for cooking and for heating buildings, or from other burning.

ATTRACTIVE PUBLIC NUISANCE - a condition of property which may reasonably be construed to be a source of danger to the persons who may reside or otherwise be on the premises, or who may, by reason of something which may be expected to attract them, come to the premises.

AUTO REPAIR GARAGE - an area where repairs, improvements and installation of parts and accessories for motor vehicles and/or boats are conducted that involves work that is more intense in character than work permitted under the definition of "auto service station." An auto repair garage shall include, but not be limited to, a use that involves any of the following work: major mechanical or body work, straightening of body parts, painting, welding or rebuilding of transmissions.

AUTO SERVICE STATION - an area where gasoline is dispensed into motor vehicles.

BUILDING - any structure having a roof supported by fully enclosed exterior weight-bearing walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature, including, but not limited to, dwellings, dwelling units, mobile homes, garages, barns, stables, sheds, plants, factories, warehouses and similar structures.

DANGEROUS PREMISES - any building, structure or property which has any or all of the following defects:

1. Any structure which, exclusive of the foundation, shows damage or deterioration of the supporting member or members, or damage or deterioration of the nonsupporting enclosing or outside walls or coverings.
2. 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.
3. 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 or disease, so as to work injury to the health, safety or general welfare of those living therein.

4. Any structure which has parts which are so inadequately attached that they may fall and injure occupants, property or members of the public.
5. Any structure used for a residential dwelling or human occupancy, excluding accessory structures, which lacks illumination, ventilation and/or sanitation facilities or because of another condition is unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public.
6. Any building, structure or property 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 occupants or the public.
7. Any building, structure or property which can be construed as an attractive public nuisance.

DWELLING - is any building which is wholly or partly used or intended to be used for living or sleeping 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 or sleeping by human occupants.

EMERGENCY CASE - a violation which poses an imminent threat to the public health, safety or welfare and which requires immediate action to eliminate such imminent threat.

ENFORCEMENT OFFICER - the individual(s), agency or firm appointed by the Polk Township Board of Supervisors to enforce the provisions of this ordinance.

EXTERMINATE - to control and eradicate insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

GARBAGE - Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

GOOD OPERATING AND ROAD-WORTHY CONDITION - is a vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than 60 days shall be considered current for the purposes of this definition.

JUNK - any scrap or abandoned man-made or man-processed material or articles, such as the following types: metal, furniture, appliances, motor vehicle parts, aircraft, glass, plastics, machinery, equipment, containers and building materials.

JUNK VEHICLE - includes any vehicle or trailer, not in a good operating and road-worthy condition that meets any or all of the following conditions:

- A. Cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs.
- B. Cannot be towed, in regards to a trailer designed to be towed.
- C. Has been demolished beyond repair.
- D. Has been separated from its axles, engine, body or chassis.
- E. Includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

JUNKYARD - an area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. Vehicle sales lots managed by licensed vehicle dealers operated in accord with this Ordinance shall not be considered junk yards. The following shall also be considered junk yards:

- A. The outside storage or deposit on a lot of three (3) or more abandoned or junked vehicles.
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes or campers which are in such a dilapidated/ deteriorated state so as not to be fit for safe or protected from the elements for the purpose of storage of personal items or use as a workshop or other similar use.

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

OCCUPANT - the person owning, leasing, renting, occupying or having charge, care, custody or control of any premises in Polk Township.

ON-SITE UTILITY VEHICLE - any unregistered vehicle used on a specific property for plowing snow, hauling fire wood, moving goods or equipment, and other similar property maintenance or operational activities. On-site utility vehicle shall not be considered junk.

OUTSIDE STORAGE - any items not contained in a building fully enclosed with completed walls and roof.

OWNER - is the person who, alone or jointly or severally with others is the owner of record of the premises as filed with the Monroe 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 chapter 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.

PROPERTY - a piece, parcel, lot or tract of land.

RUBBISH - includes, but is not limited to waste such as paper, cardboard, grass clippings, tree or shrub trimmings, wood, bedding, crockery, construction waste, similar waste materials.

SCREENED - Visibly shielded or obscured from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by topography, fencing, berms, natural and planted vegetation or other means approved by the Township.

TOWNSHIP - the Township of Polk, Monroe County, Pennsylvania.

TOWNSHIP CODE - the Code of the Township of Polk, Monroe County, Pennsylvania.

UNREGISTERED VEHICLE - any motor vehicle or trailer that does not display a license plate, process a current registration, 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 60 days prior to the first inspection and notice under this ordinance.

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.

VEHICLE or EQUIPMENT REPAIR/TOWING OPERATION - an establishment, operating in accord with the Township requirements, engaged in the service and/or repair of vehicles, including but not limited to, auto body shops, repair garages, truck repair garages, towing companies and agriculture equipment repair.

VEGETATION - any grass, weed, vegetable, crop, shrub, or other plant.

VERMIN INFESTED - the presence, within or upon a premise, of any insects, rodents or other pests which constitute a public nuisance.

#### WASTE

- A. Garbage – Means all animal and vegetable wastes subject to decay resulting from the handling, preparation, cooking and consumption of food.
- B. Hazardous Waste – Means any waste or combination of wastes, which, because of quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in

mortality or an increase in serious irreversible or incapacitating reversible illnesses, or pose a present or potential threat to humans and/or the environment.

- C. Infectious Waste – Means waste that is capable of producing an infectious disease because it contains pathogens of sufficient virulence and quantity so that exposure to the waste by a susceptible human host could result in an infectious disease. These wastes include blood and blood products, sharps and other items contaminated with blood, discarded biological products, human and animal bi-products, etc.
- D. Municipal Waste – Means household wastes and commercial, agricultural, governmental, industrial and institutional wastes which have chemical and physical characteristics similar to household wastes.
- E. Recyclable Materials – Means those materials which can be diverted, removed, or recovered from the waste stream to be used, reused, sold or recycled whether or not they require subsequent separation and processing. Recyclable materials include but are not limited to paper, paper products, cardboard, plastics, bottles, cans, glass, metals, etc.
- F. Regulated waste – Means any waste material requiring special handling and/or disposal as specified by law. Regulated waste includes, but is not limited to lead-acid batteries, yard waste, tires, major appliances, small appliances, mattresses, used oil, asbestos, contaminated soil, etc.
- G. Solid waste – Means municipal wastes, garbage, refuse, and other discarded materials including, but not limited to, solid and semi-solid waste materials resulting from residential, commercial, institutional, industrial, and governmental activities.

**Section 2. Authority.** This chapter 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.

- A. State protected agricultural operations. Nothing in this chapter is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right to Farm Law, as amended; the Pennsylvania Agricultural Area Security Law, as amended; and other applicable state statutes.

**Section 3. Responsibility.** It shall be the responsibility of the property owner of the premises upon which any public nuisance, as described in this chapter, is situated and/or occurring, jointly with the owner of any junk, rubbish, structure, building or other item which constitutes such public nuisance, 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 of property upon which a public nuisance is located or taking place, and/or any person who or which owns junk, rubbish, structures or buildings which constitute a public nuisance, 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 chapter, and shall be subject to the penalties and remedies prescribed herein.

**Section 4. Nuisances.** 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, lawfully permitted in accord with Township Zoning Ordinance, Township Code, in a fully enclosed building, or in an exempted storage area.
- B. **Vehicles.** The outside storage or deposit on a lot of three or more junk and/or unregistered vehicles that are partly or fully visible from an exterior lot line, dwelling and/or public street.
- C. **Unsanitary or dangerous material.** The accumulation of junk, ashes, garbage and/or rubbish which is unsanitary, or otherwise dangerous or detrimental to the health, safety, environment, or general welfare of the occupants of the premises or the public. Storage of garbage or biodegradable material is prohibited, other than what is customarily generated on-site and routinely awaiting pick-up not to exceed the time limit of 30 days.
- D. **Dangerous premises.** Maintaining or causing to be maintained any dangerous premises, including, but not limited to, abandoned or unoccupied dwellings or buildings in a state of dilapidation or disrepair.
- E. **Vegetation.** Permitting the growth of any vegetation which presents a public safety hazard by limiting the vision or right-of-way of travelers on any public road.

- F. Noise.** For any person to make, continue or cause to be made any unnecessary or unusually loud noise which annoys, disturbs, injures or endangers the comfort, health, safety or peace of others within and which can be heard a distance of 150 feet from its source or such person's property line between the hours of 9:00 p.m. and 7:00 a.m. or during the day time of 3 consecutive hours or more.

The following acts and the causing thereof, are declared to be sound/noise disturbances, and therefore in violation of this Ordinance:

1. Radios, Television Sets, Musical Instruments, and Similar Devices. Operating, using or playing of any radio, television, musical instrument, sound/noise amplifier, automobile radio, automobile stereo, high fidelity equipment, or similar device which produces, reproduces, or amplifies sound/noise to the extent that such use creates a sound/noise disturbance.
2. Yelling and Shouting. Engaging in loud or raucous yelling, hooting, whistling, or singing
3. Construction Tools or Equipment. Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work between the hours of 9:00 P.M. and 7:00 A.M., such that sound/noise creates a sound/noise disturbance across a residential property line (boundary), except for emergency work
4. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn/garden tool, or similar device used outdoors between the hours of 9:00 P.M. and 7:00 A.M. as to cause a sound/noise disturbance across a residential property line (boundary), except in an emergency.
5. Vehicle, Motorboat, or Aircraft Repairs and Testing. No person shall build, repair, rebuild, test, or otherwise work on any motorcycle, automobile, or other motor vehicle, motorboat, or aircraft between the hours of 9:00 P.M. and 7:00 A.M. in such a manner as to cause a sound/noise disturbance across a property line

**G. Streets, sidewalks or other public places.**

1. All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all snow, stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place which in any way may cause any injury to the public.
2. Placing a vehicle or other obstruction on or along any street of the Township so as to interfere with vehicular or pedestrian traffic, unless it should become necessary to drive or place the vehicle in such position to load or unload materials, merchandise or furniture, and then such vehicle shall only be permitted to remain for such lengths of time as is necessary to load or unload the same.

**H. Drainage.**

1. 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 along any public highway, road, street, avenue, lane or alley, or from any property into or upon any adjoining property.
2. Throwing, spreading or depositing in any watercourse, drainage way, channel or gutter, and permit it to remain there, any stone, soil, vegetation or any other material.
3. Any storage of junk shall be maintained a minimum distance of 100 feet from the center line of any waterway, and shall be kept out of any drainage swale.

- I. Open excavations.** 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 a barricade, temporary fence, or other protective materials.

**J. Advertisements, Solicitations, Signs.**

1. For any person to distribute or throw upon doorsteps, into doorways, vestibules, yards, enclosures or anywhere within the Township, samples of merchandise of any character whatsoever, or; For any person to distribute, throw upon doorsteps, into doorways, vestibules, place upon doorknobs or fences, cast into yards or anywhere else, handbills, advertising and printed matter of any nature whatsoever without prior authorization by the Township Board of Supervisors.

2. Signs. For any person to erect signs projecting across walkways, right-of-ways or in places dangerous to life and limb.
  3. For any person to post, paste or fasten any printed, painted or written signs, show bill, placard, circular or advertisement of any description whatsoever upon any tree, telephone or electric-light pole within the Township limits unless authorized by the Township Board of Supervisors.
- K. Others.** Any other such action, nonaction, 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 5. Auto repair garages and auto service stations.** In recognition of the need to allow limited storage of junk or unregistered vehicles, or vehicles awaiting repair, or insurance coverage resolution at an active and bona fide auto repair garage or auto service station, the standards in this section shall apply.

- A. Insurance; impoundment; awaiting repair.** Not more than a combined total of twelve junk vehicles, unregistered vehicles, vehicles stored in anticipation of the resolution of insurance coverage, vehicles impounded by the State Police, or vehicles awaiting repair may be stored outside a fully enclosed building except at a permitted junkyard or exempted storage area. The owner of the establishment shall maintain accurate and current records on the date of receipt, ownership, status and disposition for all such vehicles on the premises and the records shall be open for inspection by the Township.
- B. Used tires and parts.** Used tires and vehicle parts awaiting disposal may be stored outdoors on the premises provided such material is screened. The amount of such stored material shall not exceed that which would be accumulated from one month of normal operation. Any tires or parts in which water can collect and serve as a breeding area for mosquitos and other insects shall be covered by a roof.

**Section 6. Dangerous Premises.** Any dangerous premises are hereby declared to be a public nuisance, and shall be repaired, improved, vacated or demolished as required by this chapter. The following standards shall be followed in substance by the Enforcement Officer in ordering repair, improvement, vacation or demolition:

- A. Repair/improve.** If the dangerous premises can reasonably be repaired or improved so that it will no longer exist in violation of this chapter, it shall be ordered to be repaired or improved.
- B. Vacate.** If the dangerous premises 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 30 days, as is reasonable.
- C. Habitation.** No premises which have 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 Enforcement Officer. The Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action was based have been eliminated.
- D. Demolition.** If a dangerous building is damaged or decayed, or deteriorated 50% or more from its original condition; if a dangerous building cannot be repaired so that it will no longer exist in violation of the terms of this chapter; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter or any other local or state regulations, it shall be ordered to be demolished.
- E. Disposal.** All demolition waste shall be disposed of in accord with the Township Code and all applicable state and federal regulations.
- F.** Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or of residents nearby or a place for the breeding of insects, rodents and vermin.

**Section 7. Duties of Enforcement Officer.**

- A. Inspection.** The Enforcement Officer and/or a Certified Engineer may inspect any premises, building or structure to determine whether dangerous premises exist.
- B. Action.** Whenever an inspection discloses the presence of dangerous premises, the Enforcement Officer and/or a representative designated by the Board of Supervisors, shall prepare a report detailing the conditions and a recommendation as to whether or not the premises can be repaired, improved, or demolished and removed. The Officer, upon authorization by the Board of Supervisors, shall issue a written notice to the owner and/or occupant for the premises along with a copy of the Engineer's report.

**Section 8. Removal of notice prohibited.** No person shall remove or deface the notice of a dangerous premise except as provided in Section 6.

**Section 9. Emergency cases.** Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice, 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 chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Enforcement Officer, shall be afforded a hearing as soon as possible in accord. After such hearing, depending upon the findings as to whether the provisions of this chapter have been complied with, the 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 shall be collected in the same manner as provided herein for other cases.

### **Section 10. Enforcement**

- A. Appointment;** responsibility for enforcement. The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this chapter.
- B. Inspections; permission.** The Enforcement Officer, and any other agent so authorized by the Board of Supervisors, may inspect any premises to determine whether any violations of this chapter exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner or occupant for the same. If, after due diligence, the Enforcement Officer is unable to obtain such permission, the Enforcement Officer shall have the authority to conduct the necessary inspection in accord with this chapter and the applicable laws of the commonwealth, and if necessary, petition a competent court with jurisdiction for a court order authorizing the inspection. If, upon review of petition, a court orders the inspection, the defendant named in the order shall reimburse the Board of Supervisors for court cost and reasonable attorney fees. The Enforcement Officer may, upon authorization of the Board of Supervisors, consult with the Township Engineer or any other qualified person, in making the determination regarding a violation.
- C. Notice.** Whenever an inspection discloses that a violation exists, the Enforcement Officer shall, upon authorization by the Board of Supervisors, issue a notice to the owner and/or occupant of the premises. The notice shall:
  - 1. Be in writing
  - 2. Include a statement of the reasons it is being issued;
  - 3. 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 chapter.
  - 4. Inform the owner that he has a right to a hearing in accord with **Section 12.**
  - 5. Inform the owner that should he fail to comply with the order or request a hearing, the Township Supervisors will order the correction of the violation, and in accord with this chapter, will assess any and all costs, expenses (including, but not limited to, constable, attorney, engineering and consulting fees), and penalties incurred against the land on which the violation is located.
- D. 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 is absent from the Township, all notices shall be deemed to be properly served upon the owner if:
  - 1. A copy of the notice is served upon the owner personally; or
  - 2. A copy of the notice is sent by registered mail or by certificate of mailing to the last known address of the owner, regardless of receipt, and is posted in a conspicuous place on or about the premises affected by the notice; or
  - 3. The owner is served with such notice by any other method authorized under the laws of the commonwealth.
- E. Hearing appearance.** The Enforcement Officer shall appear at all hearings conducted in accord with Section 12 and testify as to the violation.

### **Section 11. Hearings.**

- A. Conduct of hearings:** A Nuisance Hearing Board shall be appointed by the Board of Supervisors. All hearings shall be conducted in accordance with the Pennsylvania Local Agency Law, 42 Pa. C. S. Section 101 ET. Seq.
- B. Hearing request.** Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the Board, provided that such person shall file with the Board in writing a request for a hearing setting forth a brief statement of the grounds therefor within 30 days after the day the notice was served in

accord with Section 10(D). Upon receipt of such request, a time and place for such hearing shall be scheduled and advertised in accord with the Pennsylvania Sunshine Law.<sup>[1]</sup> At such hearing the person requesting the hearing shall be given an opportunity to be heard and to show cause why the public nuisance(s) described in the notice should not be abated. The Board shall commence the hearing not later than 60 days after the day on which the request was received in the municipal office.

- C. Board action. After such hearing the Board shall by written order, sustain the notice, modify the standards which are the subject of the notice and attach conditions, or withdraw the notice. If the Board sustains or modifies such notice, it shall be deemed to be an order. Any notice served by the Enforcement Officer pursuant to Section 10(D) shall automatically become an order if a written request for a hearing along with the hearing fee is not filed with the Board within 30 days after such notice is served.
- D. Appeal. Any aggrieved party may appeal the final order to the Court of Common Pleas of Monroe County in accordance with the provisions of the Pennsylvania Local Agency Law.
- E. Fee. The person requesting the hearing shall pay the fee for such hearing as may be established by resolution of the Board of Supervisors.

### **Section 12. Violations; Enforcement Remedies; Action to Abate Nuisance**

- A. Failure to comply. 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 and shall constitute a summary offense.
- B. Fine; imprisonment. Any person who has violated or permitted the violation of any provisions of this chapter shall, upon judgment thereof by any Magisterial District Judge, be sentenced to pay a fine of not less than \$100, nor more than \$1,000 per day of violation, together with the costs of suit, and/or shall be committed to the Monroe County Prison for a period not exceeding 30 days. Each day of violation shall constitute a separate offense for which a summary conviction may be sought. All judgments, costs, interest and reasonable attorney fees collected for the violation of this chapter shall be paid over to the Township.
- C. Other remedies. In addition to the fines, judgments, and/or imprisonment remedies set forth above, the Board of Supervisors reserves the right to pursue independent and cumulative remedies at law or equity, including a demand for reimbursement of all court costs and reasonable attorney fees.
- D. Abatement by Township and recovery of costs. In addition, if the owner or person in control of any dangerous premises, or act or condition constituting a public nuisance or violation of this chapter, 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 notice, or fails to appeal to the Nuisance Appeal Board, or fails to comply with the determination of the appeal made by the Nuisance Appeal Board, the Enforcement Officer and/or the Board of Supervisors shall be empowered to cause such work of abatement to be commenced and/or completed by the Township and the cost and expense thereof with a penalty of 10%, plus expenses, constable, attorney, engineering and consulting fees and interest, shall be collected from the owner of such premises, in the manner provided by law.

### **Section 13. Municipal Liability**

- A. Township not to be held liable. Polk Township, and its agents, officials and representatives shall not under any circumstances be liable or legally responsible for activities or conditions which constitute a public nuisance under the terms of this chapter. Any liability or damages resulting from activities or conditions constituting a public nuisance are the sole responsibility of the owner of the property, or the person or persons responsible for said activity or condition. The failure to enforce the terms of this chapter shall not constitute a cause of action against Polk Township or its agents, officials or representatives