

**NUISANCE ORDINANCE
ORDINANCE NO. 527**

AN ORDINANCE OF THE TOWNSHIP OF KENNEDY, ALLEGHENY COUNTY, PENNSYLVANIA REGULATING CERTAIN SPECIFIC CONDUCT AND ACTIVITIES, WHICH ARE CONSIDERED TO BE AND ARE HEREBY CLASSIFIED AS NUISANCES AND/OR DISORDERLY CONDUCT IN THE TOWNSHIP OF KENNEDY, AND PROVIDING FOR PENALTIES FOR EXISTENCE OF THE SAME WHICH WOULD BE IN VIOLATION OF THIS ORDINANCE.

WHEREAS, the Board of Commissioners of the Township of Kennedy have been made aware of numerous improper activities occurring within the Township, which activities are detrimental to the property owners and residents of the Township, and,

WHEREAS, applicable Pennsylvania law authorizes townships within the Commonwealth of Pennsylvania to exercise appropriate authority, including applicable police powers, so as to prohibit nuisances, to remove any nuisance existing on public or private grounds, and to take action, as necessary, to prevent and remediate any such nuisances, and,

WHEREAS, applicable Pennsylvania law authorizes the Township to take necessary action, so as to protect the general public welfare and safety of the residents of the municipality, including seeking the imposition of appropriate penalties and the recovery of costs, as well as providing the authority to institute proceedings in the appropriate Courts of this Commonwealth, and,

WHEREAS, the Board of Commissioners of the Township of Kennedy have determined that is necessary to take appropriate action so as to protect the health, safety, welfare, and property of the citizens of the Township, and,

WHEREAS, the Township has determined that various ordinances need to be amended and updated, particularly in consideration of changes in technology and modern society,

NOW THEREFORE, be it enacted and ordained by the Commissioners of the Township of Kennedy, Allegheny County, Pennsylvania, as follows:

**ARTICLE I
PURPOSE AND INTENT**

It is the finding of the Board of Commissioners of the Township of Kennedy, after consideration of and based on their discussions with the Kennedy Township Police, as well as other agencies at the local, state, and federal levels, that action must be taken so as to address nuisances and disorderly conduct. It is specifically determined that there is the existence of conduct, behavior,

and activities, occurring in the Township, with the resulting consequences being detriment and danger to the public health, safety, welfare, and general public interest. The Board of Commissioners of the Township of Kennedy believes that it is necessary to address the numerous problems, and that the general public interest requires the regulation of activities, behavior, and conduct, that create nuisances and other improprieties in the Township.

In consideration of all matters, the purposes of this ordinance specifically include as follows:

1. Action must be taken to protect the public against the unlawful activities, behavior and conduct which is addressed herein, which conduct constitutes a nuisance, nuisances and/or disorderly conduct, which are inappropriate in consideration of applicable law.
2. Action must be taken to protect the property owners and residents of the Township, so as to allow their use and enjoyment of their property against improper activities, conduct, and/or behavior, which is considered to be a nuisance, and/or disorderly conduct.
3. Action must be taken to protect the property owners and residents of the Township, against various menaces to their health and safety, as well as the expenses that they may be forced to incur incident to the improper activities, behavior and/or conduct, which is herein classified as a nuisance and/or disorderly conduct.
4. Action must be taken to protect the constitutional right of the residents of this Township in the pursuit of happiness, and to preserve the normal and necessary rules of decency, good morals, and public order, by taking action to regulate and/or preclude the conduct that is herein described as a nuisance and/or disorderly conduct.

ARTICLE II **DEFINITIONS**

Where not defined in this or in another Kennedy Township ordinance or applicable statute of the Commonwealth, terms shall be given their ordinary, customary, and common meaning.

Terms Defined. The following words, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates otherwise.

Compost	Relatively stable decomposed organic matter.
Composting	A controlled process of degrading organic matter by microorganisms.
Condemn	To adjudge unfit for occupancy.
Dangerous Conditions	<ol style="list-style-type: none">1. Open wells and cisterns2. Open excavations3. Dangerous placement of refrigerators and other such materials or equipment4. Damaged or partially destroyed buildings or structures in a state of disrepair.

Debris	The scattered remains of something broken or destroyed; ruins; rubble fragments.
Disorderly Conduct	Any act or conduct causing a disturbance of the peace and good order of the Township, including, but not limited to, any loud, boisterous, excessive, unnecessary noise; fighting; quarreling; public use of obscene or indecent language; causing any danger while being visibly intoxicated; loitering or prowling on private or public property, particularly as discussed and set forth in Article IV, herein.
Emission	A discharge of pollutants, or offensive odors, into the air.
Exterior Property	The open space on the premises and on adjoining property under the control of owners or operators of such premises.
Extermination	The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.
Garbage	The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
Glare	The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and/or visibility.
Health Concerns	Conditions that could adversely affect the health and soundness and welfare of an individual, including but not limited to: <ol style="list-style-type: none"> 1. Stagnant water in which insects multiply 2. Properties in developed neighborhoods not maintained free of weeds, unhealthful growth, junk or debris
Humus	Decomposed organic material.
Infestation	A visible presence of insects, rats, vermin or other pests.
Interchangeability	Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number.
Junk	Scrapped materials such as glass, rags, paper, or metals that can be converted into usable stock; anything worn-out or fit to be discarded. includes the plural and the plural, the singular.
Noxious Weeds	All weeds established under the noxious weed control list pursuant to the Pennsylvania Noxious Weed Control Law, or similar legislation.

Nuisance	Generally, an act or omission which obstructs, interferes with and/or causes inconvenience and/or damage to the public in the exercise of common rights and/or enjoyment and use of property. This term applies to any public nuisance, including but not limited to, interferences with the interest of the community and/or the comfort and convenience of the general public, including interference with the public health, peace, safety and/or general welfare and/or all other acts and/or omissions considered harmful to the promotion of the health, cleanliness, comfort, safety and general well-being of the citizens of Kennedy Township and all acts declared herein to be a nuisance.
Nuisance Element	Any environmental pollutant, such as smoke, odors, liquid wastes, solid wastes, radiation, noise, vibration, glare or heat.
Ornamental Grass	A grass grown for its beauty or ornamental value and not established as a noxious weed.
Owner	Any 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 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	An individual, corporation, partnership, or any other group acting as a unit.
Premises	A lot, plot or parcel of land including any structures thereon.
Public Nuisance	Use of property or course of conduct that interferes with the legal rights of others for such a length of time as to: <ol style="list-style-type: none"> 1. Substantially annoy, injure, adversely affect or endanger the comfort, health, safety or welfare of a number of persons 2. Unlawfully interfere with, obstruct or render dangerous for use or passage any street, road, sidewalk, river or public way or place 3. Interfere with the reasonable use and enjoyment of public or private property by other persons in the community.
Rubbish	Combustible and noncombustible 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, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, "junk", debris, metals, mineral matter, glass, crockery, dust and other similar materials.
Solid Waste	Unwanted or discarded material or refuse, including garbage, with insufficient liquid content to be free-flowing.

Tenant	A person, corporation, partnership or group, whether or not the legal owner of record.
Vehicle	A device propelled by power other than human power, designed and/or used for the transportation of people or goods over land surfaces and including, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

ARTICLE III NUISANCES

It is hereby declared that the following, set forth herein, are considered to be a common nuisance within the Township of Kennedy, and that the same are violative of and against the public health, safety, and interests of the residents of the Township, so that the conduct is punishable, and that action may be taken to abate any such conduct:

1. Merchandise and advertising matter. 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 door-ways, 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 Commissioners and in accordance with the Kennedy Township Peddlers, Solicitors and Canvasses ordinances.

2. Signs. For any person to erect signs projecting across walks or in places dangerous to life and limb.

3. Cesspools. For any person to permit and maintain open vaults, drains, failed cesspools and failed septic systems prejudicial to public health.

4. Lights. No lights, incandescent, strobe, sodium or mercury vapor, shall spot, flood, or otherwise shine so as to impede the safe movement of traffic upon the streets, highways or traffic ways within the Township of Kennedy. No lights, incandescent, strobe, sodium or mercury vapor, shall spot, flood, or otherwise shine upon the private property of another so as to annoy, disturb or otherwise prevent another person from enjoying the privacy of their own property. No residence, business, industry or other person shall illuminate any sign adjacent to any street, highway or traffic way within the Township of Kennedy with flashing, rotating, sequential, strobe, or otherwise moving lights, so as to interfere with the movement of traffic upon said streets, highways or traffic ways, within the Township of Kennedy. No residence, business, industry or other person shall 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 motoring public upon any street, highway or traffic way within the Township of Kennedy.

5. For any person to engage in the business of manufacture or sale of any explicitly pornographic, obnoxious or obscene material or to provide entertainment which is considered offensive in nature within the township.

6. Fires. For any person to start fires endangering the lives and property of the people of the township. Further, the burning or setting fire to trash, rubbish, refuse, garbage, solid waste, recyclable materials, leaf waste, motor vehicles, machinery or other material brought upon and accumulated or stored on any premises.

7. Obstructing streets, etc. For any person to permit any mud, dirt, coal, wood, brick, stone, gravel, clay, sand, rubbish or any other matter to remain upon the streets or in the gutter in front of his premises more than twenty-four (24) hours after it has been deposited there except by special permission of the Township Board of Commissioners.

8. Depositing in streets, streams, etc. For any person to throw, spread or deposit on any of the streets, roads, lanes, alleys, courts or any watercourse or gutter within the Township limits, and permit it to remain there, any animal carcass, fish, shellfish, ashes, paper, glass, tires, cans, rubbish or offal of any kind or any other refuse or offensive matter whatsoever.

9. Nauseous draining, etc. For any person to run foul or nauseous liquids, washings or draining from any manufacturing establishments, stores, stables, private residences or shops into any of the gutters or along any of the sidewalks, streets, roads, lanes, alleys or courts of the Township, or to keep, collect or use any garbage or filth or any stale, putrid, stinking fat, grease or other matter in or near any establishment or residence within the township limits.

10. Loud Music or Noise, etc. For any person, except by permission of Township Board of Commissioners, to play amplify or listen to music by any manner including home stereos, vehicular sound systems and portable "boom boxes", to beat any drum or drums, blow any horn or horns, or otherwise make any unusual noise, disturbing the peace after 11:00 p.m. which can be heard a distance of 150 feet from its source or such person's property line or; for any person to make, continue or cause to be made or continued 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 11:00 p.m. and 7:00 a.m.

11. Posting advertisements. 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, telegraph, telephone or electric-light pole within the Township limits unless authorized by the Township Board of Commissioners.

12. Glass, etc., on streets, etc. For any person to place, throw or put on any street, road, lane or alley of the Township any tacks, nails, sharp pieces of iron, glass bottles, briars, thorns or other dangerous and similar substances which may injure an animal or puncture a rubber tire.

13. Odor. For any person to permit or cause the emission of any offensive or foul odor, scent, effluvium, emanation or fume within the Township limits, except as normal and customary in farming activities.

14. Snowballing, etc. For any person to throw, hurl or cast any metal, stone, snowball, bullet or other missile at any person or animal passing along or standing at any of the streets, roads, lanes, alleys or sidewalks of the Township.

15. Dogs and animals, etc. For any person owning, keeping, or permitting any dog or animal on or about his premises to disturb the peace and quiet of the neighborhood by barking, howling, crying or otherwise making a noise to the annoyance of the neighborhood which can be heard a distance of 150 feet from that person's property line.

(1) Harboring – it shall be unlawful for any person knowing to keep or harbor any dog which habitually barks, howls or yelps or any cat which habitually cries or howls to the great discomfort of the peace and quite of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

(2) Dogs Running at Large – it shall be unlawful for any person owning or possessing any dog to permit the same to run at large. “Running at large” shall be defined to be the presence of a dog at any place except upon the premises of the owner, or upon the premises of another with the consent of the owner of such premises. A dog shall not be considered to be running at large if it is on a leash or under control of a person physically able to control it.

(3) Keeping of Vicious Animals –

i. It shall be unlawful for any person to keep or permit to be kept on his premises any vicious animal as a pet or for display or for exhibition purposes, whether gratuitously or for a fee.

ii. It shall be unlawful for any person to harbor or keep a vicious animal within the township. Any animal which is found off the premises of its owner may be seized by any police officer or humane officer; provided however, that this section shall not apply to animals under the control of a law enforcement or military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence or other adequate means, from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.

iii. “Vicious animal” shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that a person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

iv. Provisions of this ordinance relating to dogs which habitually bark, howl or yelp shall not apply to a “seeing eye dog” (service animal) or other animal which is designed and certified to provide assistance and protection to a person who has been identified as a person who has been identified as being legally blind, or otherwise in need of such service animal.

16. Obstructing streets. For anyone 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 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.

28. The deterioration of any structure or property to such a state where it becomes unsafe and/or is unusable for its intended purpose, and/or constitutes a fire hazard endangering surrounding structures, property or persons and/or provides shelter for rats or other wild animals or vermin, and/or creates a hazard to the health, welfare and/or safety of children or adults who reside, play or work thereabouts.

29. Any composting activity which, by virtue of size, location, lack of proper controls, content or other reason, unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health, safety and/or welfare of the occupants of a neighboring property, or endangers the health, safety and/or welfare of Township residents and/or the users of the Township's public streets, property or facilities.

30. Any use of or activity upon property that, by reason of flame, glare, smoke odors, emissions, fumes, noise or dust, unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health, safety and/or welfare of the occupants of a neighboring property, or endangers the health, safety and/or welfare of Township residents and/or the users of the Township's public streets, property or facilities.

31. The storing of gasoline, kerosene or other petroleum products in excess of 5,000 gallons, except by gasoline service stations or dealers where all gasoline, kerosene or other petroleum products is stored in appropriate tanks.

32. No owner, operator, or other person or entity in control of any property within the Township shall allow criminal behavior to occur on said property.

33. Any activity or occurrence, of any sort, that results in multiple and/or increased calls for police, fire or ambulance response, as used and considered herein, it shall be deemed a nuisance for there to be more than three (3) such calls in any period of seven (7) calendar days. This shall not apply to a residence or healthcare facility when a documented health-related issue may exist. It is specifically noted that enforcement hereunder may be in addition to enforcement under any ordinance or other law relating to false alarms.

ARTICLE IV **DISORDERLY CONDUCT**

Disorderly conduct shall not occur in this township.

1. Disorderly conduct shall mean and include all conduct by any person which, whether or not intended to do so, disturbs the good order and quiet of the Township or of any section of the Township and/or endangers or violates the public peace in any other manner by:

- i. clamor or noise;
- ii. intoxication or drunkenness;
- iii. fighting or threatening to fight;
- iv. engaging in violent or tumultuous behavior and/or creating a disturbance of the public order by an act of violence or by any act likely to produce violence;

- v. use of obscene, profane or indecent language and/or of an obscene gesture on sidewalks, streets or in any public place or building in the Township to the annoyance of any of its residents;
- vi. addressing abusive language or threats to any person present which creates a clear and present danger of violence;
- vii. congregating with others on any street, road or other public way or public place and refusing to move on when ordered to do so by police;
- viii. causes likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a police officer, where three or more persons are committing acts of disorderly conduct in the immediate vicinity;
- ix. operating, playing or permitting the operation or playing of any radio, television or other device producing or amplifying sound at any time of the day in such a manner from any source as to create a noise disturbance across a real property boundary;
- x. disturbing, tending to disturb or aiding in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct;
- xi. creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.
- xii. acting in a manner considered to be "disorderly conduct" as defined or recognized by applicable Pennsylvania law.
- xiii. commits a trespass on residential property or on public property. Trespass for the purpose of this Ordinance shall mean:
 - (1) Entering upon, or refusing to leave, any residential property of another, either where such "NO TRESPASSING" signs, or where immediately prior to such entry or subsequent thereto notice is given by the owner or occupant, orally or in writing, that such entry, or continued presence, is prohibited.
 - (2) Entering upon, or refusing to leave, any public property in violation of regulations promulgated by the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer.
- xiv. damaging, befouling or disturbing public property or property of another so as to create a hazardous, unhealthy or physically offensive condition.

17. All street crossings shall be kept free from sleighs wagons, carts, carriages and other vehicles, and horses or other animals and other obstructions shall not be placed or allowed to remain thereon except as may be necessary in crossing the same.

18. For any person to make indecent or blasphemous remarks or use vile language, or to be found in a drunken or disorderly condition within the Township.

19. No person or persons shall blast rock on or near any public street or alley within the Township without first having obtained permission from Township, and after having obtained permission, to blast under conditions and restrictions as set forth in the written consent of the Township.

20. Explosives. No person or persons excluding businesses dealing with such or using the same in the course of its businesses shall keep or store explosives within the Township, and no vehicles loaded with explosives shall be allowed to remain within the Township limits for a longer period than two (2) hours.

21. No person or persons shall sell or offer for sale at any place within the Township any stale or diseased meats or provisions.

22. No person shall permit any animals including any dogs, cats, cattle, horse, mule, sheep, goat, geese, ducks or swine to roam or be at large upon the streets, lanes or alleys in any of the inhabited parts of the Township.

23. No person shall own, occupy or keep ground or other premises in such a condition to be offensive and a nuisance to the neighborhood, or to create a health or safety risk to the children and citizens of the Township.

24. Littering is prohibited as provided for in the Kennedy Township Litter Ordinance and other applicable law.

25. Junk. No junk should be kept or stored on any premises or property within the Township unless the keeping or storage of same is specifically authorized by the Township within the standards and regulations provided for by Pennsylvania law and Kennedy Township ordinances.

26. Junked Motor Vehicles. For any person to own or have stored upon their property any motor vehicle which is no longer in actual use for transportation or which is wholly unfit to be operated or has been discarded or otherwise abandoned. Failure of a motor vehicle to display a current valid registration plate and certificate of inspection is required by the vehicle code of Pennsylvania should constitute prima facie of proof that such vehicle is no longer in actual use for transportation purposes.

27. Any such act which may be deemed to be a nuisance and/or disorderly conduct, as may be defined in, and/or prohibited by, the provisions of Title 18 of the Pennsylvania Consolidated Statutes, or any other provision of applicable Pennsylvania law, shall similarly be considered to be a nuisance and/or disorderly conduct, and may be subject to punishment and sanctions, as provided under this ordinance, and/or as provided for under applicable Pennsylvania law.

- xv. Threatening any form of violence and/or criminal act, including especially any form of threat, whether made orally, in writing, or electronically, including by means of social media, email or the like, whether such threat be made against a particular individual, group or class of individuals, or against any form of organization, school, church, or other institution.

2. Presence or Participation in Disorderly House or Place Prohibited.

No person shall participate in or knowingly be present in or at a disorderly house or place where disorderly conduct, as defined in this Ordinance, is occurring.

3. Enforcement.

This Ordinance shall be enforced by the Kennedy Township Police Department and/or by designated township official in accordance with the Rules of Criminal Procedure governing summary offenses and/or as set forth herein.

4. Penalties for Violation.

A person found to have violated this section of this Ordinance shall pay a fine in an amount not less than \$50.00 and not more than \$1,000.00 as shall be determined by the Magisterial District Judge having jurisdiction, plus costs. All fines shall be payable to Kennedy Township.

5. This ordinance shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other laws.

ARTICLE V **SCOPE**

This Ordinance is a supplement to existing ordinances regulating behavior that may be classified as a nuisance and establishes additional conduct that constitutes a nuisance. This ordinance does not repeal or amend any prior enacted ordinances to the extent of limiting the enforcement of such ordinances. This ordinance specifically does not act to repeal, but rather supplements, Ordinances 238, 366, and 470, and any violation of those Ordinances may also, as appropriate, be violations hereunder. This ordinance does repeal and supplant Ordinance 108.

ARTICLE VI **ABATEMENT OF NUISANCES AND ENFORCEMENT OF THIS ORDINANCE**

1. The Board of Commissioners, through adoption of this Ordinance, does not, in any way, waive any of its civil and/or equitable rights to abate any nuisance which may exist within the Township of Kennedy.

2. It shall be unlawful, and a violation of this Ordinance, for any person to commit, establish, allow and/or permit the occurrence of a public nuisance, this including violation of those acts and omissions prohibited by this Ordinance.

3. Each violation and each day a violation continues shall constitute a separate offense.

4. Where a violation involves acts or omissions on a property owned by one person and occupied by another, the Township shall have authority to cite either or both the owner and occupant and to determine whether one or both parties is or are responsible for the violation.

5. Nothing in this Section shall be construed to prohibit or limit the Township of Kennedy from taking action to abate nuisances prior to or independent of proceedings for enforcement in cases of violation of this Ordinance.

6. All regulation of this Ordinance shall be enforced as criminal and/or civil matters in accordance with the procedures as provided for by applicable law.

It is specifically noted that a police officer shall, upon view, have the right of arrest without warrant upon probable cause when there is ongoing conduct that imperils the personal security of any person or endangers public or private property. After making a warrantless arrest, the officer shall follow the procedures as set forth in the Pennsylvania Rules of Criminal Procedure, and/or other applicable law.

7. Impoundment of Vehicles. The Chief of Police or any member of the Township Police Department or other law enforcement agency having appropriate jurisdiction is authorized to remove or have removed any vehicle left at any place within the Township which reasonably appears to be in violation of this ordinance or lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the Vehicle Code, as the same in the future may be amended.

8. For any violation of any provision of this ordinance by permitting, creating, maintaining, or being guilty of any of the nuisances herein specified and/or upon failure to abate such after notice to do so, the actor shall be guilty of a summary offense and upon conviction thereof be liable to pay a fine not less than \$250.00 and not more than \$1,000.00 unless a fine is otherwise provided for by Pennsylvania law or other applicable Township ordinance.

ARTICLE VII **SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is, for any reason, held invalid or unconstitutional by any Court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

ENACTED this 8th day of May, 2018, by the Board of Commissioners of the Township of Kennedy, Allegheny County, Pennsylvania.

THIS ordinance shall become effective five (5) days after enactment.

ATTEST:

TOWNSHIP OF KENNEDY
ALLEGHENY COUNTY, PA

Karen M. Myers
Secretary

By: [Signature]
Chairman



**KENNEDY TOWNSHIP
ORDINANCE NO. 502
KENNEDY TOWNSHIP BOARD OF COMMISSIONERS**

AN ORDINANCE, OF THE TOWNSHIP OF KENNEDY, RELATING TO THE IMPROPER ACCUMULATION OF ITEMS OF PERSONALTY, SUCH AS IS COMMONLY KNOWN AS HOARDING, AND RELATED ACTIONS AND BEHAVIORS, SAID ORDINANCE PROVIDING FOR THE PUBLIC SAFETY AND WELFARE OF THE COMMUNITY.

WHEREAS, the Township of Kennedy is granted, under applicable laws of the Commonwealth of Pennsylvania, the authority to address unsanitary or unsafe property conditions, including the existence and/or accumulation of rubbish, debris, and the like, and,

WHEREAS, the Board of Commissioners of the Township of Kennedy believe that the improper accumulation of objects or substances on real property may create hazards to human safety and/or health, and,

WHEREAS, such hazards may be the result of a disorder, as recognized by mental and psychiatric care providers, and,

WHEREAS, such hazards can be seen to be problematic for the residents of a dwelling, as well as the occupants of contiguous properties, and,

WHEREAS, the Board of Commissioners of the Township of Kennedy concludes that the health, safety and general welfare of the public will be served by providing for an ordinance that will address the hazards to human safety and/or health that may result from hoarding behaviors, while balancing the rights of property owners and occupants,

NOW THEREFORE, the Board of Commissioners of the Township of Kennedy, acting in public session, after appropriate advertising of the ordinance set forth herein, do hereby declare and ordain as follows:

Section 1. The concerns noted in the preambles of this Ordinance are considered to be general findings and declarations of intent with regard to the Ordinance set forth herein.

Section 2. The Ordinance contained herein shall contain various terminology, for which the following definitions apply:

(a) "Dwelling unit" means an interior space that provides an independent residential facility for one or more individuals (including permanent provisions for living, sleeping, eating, cooking, and sanitation) and that is used regularly for such purposes, together with any adjoining exterior space (such as a patio, carport, or fenced area) that reasonably appears to be part of the same independent structure.

(b) "Enforcing official" is any person authorized by the Board of Commissioners of the Township of Kennedy, including any Building Inspector, Zoning Officer, Zoning Compliance Officer, Manager, Chief of Police, member of the Kennedy Township Police Department, and any designees of those individuals.

(c) "Occupant" means an individual having lawful or other possession of a dwelling unit.

(d) "Property" means a parcel of land to which some form of property designation, either directly by the Township or through the Allegheny County Board of Property Assessment Appeals and Review.

(e) "Serious and immediate hazard" means a condition that, in the absence of immediate corrective action by a representative of the Township, could reasonably be foreseen to present a reasonable likelihood of causing serious bodily injury to a human being. The likelihood of a serious and immediate hazard may be determined from the personal observation of any person, including specifically an enforcing official, or from circumstantial evidence that has been presented to an enforcing official.

Section 3. Scope of and responsibility for enforcement.

(a) This Ordinance applies to:

(1) Any property containing one or more dwelling units, without regard to the form of the ownership of the property;

(2) Any dwelling unit that shares a common interior wall with another dwelling unit, without regard to the form of the ownership of the property or properties on which the dwelling units are located; and

(3) Any dwelling unit considered to be part of a condominium or the like, as the same is considered under applicable Pennsylvania law.

(b) The primary responsibility for enforcing this Ordinance shall reside with the following: the Chief of Police of the Township of Kennedy; the Zoning Officer (or Code Enforcement Officer or Building Inspector) of the Township of Kennedy; and the Township Manager. Enforcement shall be in coordination with the Fire Chief, as well as any members of the Police Department as may be appropriate in consideration of the circumstances of the perceived violation of this Ordinance.

Section 4. Unlawful Accumulation

(a) It is unlawful for an occupant of a dwelling unit within the scope of this article to store or otherwise to accumulate, in or on the dwelling unit, objects or substances of a nature or in a quantity reasonably likely to create a hazard to the safety or health of an occupant of that or another dwelling unit on the same or a contiguous property, even if the objects or substances are not visible from a public place or a public right-of-way.

Section 5. Penalty for Violations

(a) Unless a different penalty may be provided for elsewhere in the Ordinances of Kennedy Township and/or under the laws of the Commonwealth of Pennsylvania, a person violating this article shall be considered to be guilty of a summary offense, and upon conviction shall be fined not less than \$200.00 nor more than \$350.00. Each day a violation continues shall constitute a separate offense.

(b) Upon discovery of a violation of this article, the enforcing official may issue to the violator a criminal citation enforceable in District Court, or elsewhere, as provided for under applicable Pennsylvania law, provided that the violation remains after the enforcing official has issued to the violator a written warning affording a reasonable opportunity to cure the violation.

Section 6. Authority to Enter Property; Warrants; Emergencies

(a) For purposes related to the enforcement of this article, authority to enter a dwelling unit includes authority to enter the property on which the dwelling unit is located, but only to the extent necessary to access the dwelling unit against which this article is being enforced.

(b) For purposes related to the enforcement of this article, an enforcing official may enter a dwelling unit, but only with written or verbal permission from an occupant, unless otherwise provided by this section.

(c) If circumstances exist that would lead a reasonable person to conclude the enforcing official does not have permission to enter a dwelling unit, entry shall be made only under authority of a warrant issued by a district justice.

(1) In applying for a warrant, the official shall submit to the district justice an affidavit, which may be based on information supplied by others, describing with reasonable specificity the dwelling unit into which entry is sought, stating facts giving rise to the official's reasonable belief that the dwelling unit is in violation of this article, and, to the extent known by the official after reasonable inquiry, the name and contact information of the occupant(s) of the dwelling unit.

(2) If the district justice finds that probable cause exists for the enforcing official's entry into the dwelling unit, the district justice shall issue a warrant authorizing the entry. The warrant shall constitute authority for the official to enter and to inspect the dwelling unit, to gather evidence by reasonable means, including photography and videography, and to procure samples and specimens as reasonably necessary to determine the existence and extent of a violation of this article. It is unlawful for a person to interfere or to refuse compliance with a warrant issued pursuant to this section.

(d) Notwithstanding anything to the contrary in this section, if the enforcing official reasonably believes that a serious and immediate hazard exists in or on a dwelling unit, the official may enter the dwelling unit at any time. In such circumstances the enforcing official:

(1) May be accompanied by other township employees, including officers of the police department;

(2) Shall make every reasonable effort to present proper identification to the owner, tenant, or other person who reasonably appears to have a right to occupy or to control the dwelling unit;

(3) Shall remain in or on the dwelling unit only for such time as is reasonably necessary to conduct inspections and to gather evidence required to determine whether a serious and immediate hazard exists; and

(4) As soon as reasonably possible, shall memorialize the circumstances of the official's entry into the dwelling unit. The memorialization may be typed, handwritten, or in electronic form and shall be preserved in the records of the enforcing official. After expiration of the time prescribed in subsection (d) (3) of this section, the official may enter a dwelling unit only under the authority of subsections (b) or (c) of this section.

Section 7. Authority to Consult with Mental Health Organization

(a) In a manner consistent with an operating procedure promulgated by the chief of police, an enforcing official may consult with MHMRA of Allegheny County (or with another nonprofit mental health organization approved in writing by the chief of police) when circumstances related to the enforcement of this article reasonably indicate that an occupant of a dwelling unit may suffer from a mental illness, including but not limited to a hoarding disorder as described in the then-current edition of the Diagnostic and Statistical Manual of Mental Disorders.

Section 8. Article Supplemental

(a) The provisions of this article are cumulative of all other ordinances, laws, and applicable regulations.

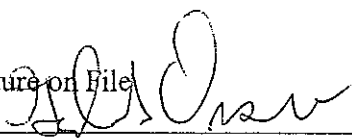
Section 9. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Board of Commissioners of Kennedy Township in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose

ORDAINED AND ENACTED INTO LAW, this 14th day of July 2015

Attest:

TOWNSHIP OF KENNEDY

Signature on File



Township Secretary

By:



Anthony Mollica, President
Board of Commissioners