

**TOWNSHIP OF O'HARA
ALLEGHENY COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE TOWNSHIP OF O'HARA AMENDING AND
RESTATING THE TOWNSHIP NUISANCE ORDINANCE NO. 1226**

WHEREAS, the Township of O'Hara has undertaken a review of its existing Nuisance Ordinance No. 1226; and

WHEREAS, it has been determined that certain changes should be incorporated into said Ordinance by way of an amendment and restatement for the purpose of clarification and enforceability.

NOW, THEREFORE, the Township of O'Hara hereby ordains that the Nuisance Ordinance No. 1226 of the Township is hereby amended and restated in its entirety.

IT IS HEREBY ORDAINED AND ENACTED by the Council of the Township of O'Hara, Allegheny County, Pennsylvania, as follows:

**ARTICLE I
PURPOSE**

General

Title. These regulations shall be known as the Nuisance Ordinance of the Township of O'Hara, hereinafter referred to as "this ordinance."

Scope. The provisions of this ordinance shall apply to all residential and non-residential properties, vacant land, and constitute the minimum requirements and standards to prohibit nuisances, protect the life, safety, and general welfare of the public, and provide for the enforcement and penalties as provided herein.

Severability. If a section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

**ARTICLE II
DEFINITIONS**

Unless otherwise expressly stated, the following terms shall, for the purpose of this ordinance, have the meanings shown in this ordinance.

Condemn. To adjudge unfit for occupancy.

Dangerous Conditions.

1. Open wells and cisterns
2. Open excavations
3. Dangerous placement of refrigerators and other such materials or equipment
4. Damaged or partially destroyed buildings or structures in a state of disrepair
5. Unfinished buildings and open foundations for a period exceeding six months.

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; being visibly intoxicated; loitering or prowling on private or public property.

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.

Health Concerns. Conditions that could adversely affect the health and soundness and welfare of an individual, including but not limited to:

1. Stagnant water in which insects multiply
2. Properties in developed neighborhoods not maintained free of weeds, unhealthful growth, junk or debris

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 includes the plural and the plural, the singular.

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.

Noxious Weeds. All weeds established under the noxious weed control list pursuant to Section 255.3(b) of the Pennsylvania Noxious Weed Control Law (3 P.S. 255.1 – 255.11).

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:

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.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Terms defined in other codes. Where terms are not defined in this ordinance and are defined in other codes adopted by the Township of O’Hara, such terms shall have the meanings ascribed to them as in those codes.

Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Weeds. Grasses, annual plants and vegetation. Weeds shall not include cultivated flowers, gardens, ornamental grasses, trees, shrubs, or ivy.

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

Yard Waste. Grasses, plants, vegetation, leaves, branches, and/or brush that are dead and are no longer rooted in the earth.

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ARTICLE III VIOLATIONS

Specific Acts

301.1 Disorderly conduct. Any individual whose actions or conduct causes 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; being visibly intoxicated; loitering or prowling on private or public property, more specifically as follows:

Noise

1. Loud playing of radios, television sets, amplifiers and sound devices so as to be heard beyond the premises in a residential neighborhood shall not exceed sixty (60) dba for a two (2) hour duration nor after 11:00 p.m.; in a commercial area shall not exceed sixty-five (65) dba for more than eight (8) hours in a twenty-four (24) hour period nor after 11:00 p.m.; in an industrial area shall not exceed seventy-five (75) dba for eight (8) hours during a twenty-four (24) hour period nor after 11:00 p.m.
2. Operation of motor vehicles, motorcycles, motorbikes, all terrain vehicles, scooters, and go-karts which are not adequately and properly equipped with mufflers in operating condition, or to operate same causing unnecessary noise resulting in a disturbance of the peace, or to race same, or operate same in a reckless and dangerous manner. No gasoline powered lawn equipment, off-road vehicles, or gasoline powered chain saw shall be operated any day before 7:00 A.M. nor after 9:00 P.M., nor on Sunday before 12:00 P.M. (Noon), unless being utilized for snow removal or emergency measures.
3. Operating an unlicensed vehicle, including but not limited to, go-karts, all-terrain vehicles, motor bikes, or operating model airplanes equipped with gasoline engines on a public street or on public or school grounds.
4. The keeping or harboring of any dog or other animal or fowls which by frequent howling or barking or other noise or odor shall annoy or disturb the neighborhood or a number of persons.
5. No individual, firm, corporation, or commercial operator shall conduct any building or road construction, excavating, trenching activities, or operation of heavy equipment or trucks in connection therewith between the hours of 7:00 p.m. and 7:00 a.m. daily, or on Sundays or holidays, except by special permission issued by the Township Manager. Such permit shall be issued only if it is shown that the construction work must proceed as a matter of emergency, or that it can be carried on in a manner or in such a place that the public or residents will not be annoyed or disturbed by said construction work. Construction work shall be conducted in such a manner as to avoid or minimize the causing of dirt and dust to be carried by wind

onto adjacent properties, or mud to be tracked or drained onto streets adjacent to the project.

Exception: The emergency repair of broken water lines, gas lines, sewer lines or other utilities shall not be subject to the above time restrictions.

Disturbance

1. Parking of automobiles on streets or public property or on private property not owned by occupants of the automobile for the purpose of engaging in lewd acts.

2. No vehicle that is disabled, and/or from which the wheels or engine have been removed, and/or that is not in operating condition, and/or which does not have a current motor vehicle license, and/or which does not have a current safety sticker attached, and/or any vehicle in a state of major disassembly, disrepair, and/or in the process of being stripped and/or dismantled shall be placed, parked, or stored on any street, right-of-way, or in any yard, driveway, or on public property for a period not to exceed 48 hours in any one month, as further set forth in Township Zoning Ordinance No. 1091, Article XIII, Section 72-13.87. The above regulations shall not apply to the temporary, minor repair of a vehicle by an owner or occupant of property for a period not to exceed 48 hours in any one month.

Exception: Subject to other regulations, a vehicle is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or enclosed area.

3. Throwing trash or rubbish upon or “littering” the streets or public or private property adjacent thereto.

4. Properties in developed neighborhoods shall be maintained free of junk, debris, rubbish and garbage.

5. Posting bills, notices, advertisements or signs on telephone poles or elsewhere along streets or on public or private property, other than signs permitted under the Zoning Ordinance.

6. The distribution, sale or exhibition of obscene, indecent or lewd pictures, films, literature, pamphlets or engaging in any obscene, indecent or lewd act or show.

7. Any other act or acts which would be a violation of the First Class Township Code or the laws of the Commonwealth of Pennsylvania and not specifically defined or prohibited by any other ordinances of the Township of O’Hara.

301.2 Dangerous conditions.

It shall be unlawful for any person to maintain or permit any of the following dangerous conditions that could cause serious or life-threatening injury or death in the Township of O'Hara:

Openings

1. Open wells and cisterns posing a threat of falling and/or drowning.
2. Open excavations posing a threat such as, but not limited to, falling.

Structures

1. Unfinished and unsafe buildings, foundations or other structures for a period not to exceed one year, without minimum safeguards to protect and warn occupants and the general public of danger, including but not limited to, fire, faulty construction, damage, partial destruction, dilapidated construction, unstable foundation, or possible collapse.

Walkways, Stairs, Parking Spaces, Driveways

1. All sidewalks, walkways, stairs, driveways, parking spaces, public parking lots and similar areas shall be maintained free from hazardous conditions, enough for emergency personnel to access premises. Such hazardous conditions include but are not limited to, the accumulation of snow and ice, uneven concrete or bricks which may cause tripping. The owner or occupant thereof shall, within twelve (12) hours after the snow has ceased to fall, remove snow and ice from public sidewalks, walkways, or stairs. No snow or ice shall be deposited or shoveled onto the pavement of any public street.
2. Trees, vegetation or other obstructions along roadways or at intersections shall not cover, block or otherwise obstruct sight lines of traffic or traffic signs or signals.

Swimming Pools

1. Any above ground or on-ground swimming pool that is greater than three feet (3') deep shall have an enclosure of not less than four (4) feet above the ground and shall conform to the requirements as stipulated in the Pennsylvania Uniform Construction Code. Any pool, associated appurtenance and electrical equipment shall be maintained in good condition, free from stagnant water, and shall be inspected and approved by the Township.

Miscellaneous

In the interest of the public health, safety and welfare conditions and situations shall be prohibited, including, but not limited to, the following:

1. The placement of refrigerators, freezers and other such materials or equipment, which potentially poses a threat to health and safety including but not limited to suffocation, injury or deterioration.

2. The keeping of a vicious dog not adequately leashed or secured.

301.3 Health concerns.

In accordance with Allegheny County Health Department regulations, as may hereinafter be amended, and is on file at the Township of O'Hara for review during regular business hours, it shall be unlawful for any person to maintain or permit any of the following conditions that could cause serious life-threatening health, injury or death in the Township of O'Hara, including but not limited to:

Water

1. Swimming pools which are three (3) feet in depth or greater and not properly safeguarded with guards or fences. All electric components shall be in good working order and properly inspected.
2. Stagnant water in which insects multiply.

Infestation/Sanitation

1. The infestation of insects, rats, vermin or other pests. The owner shall be responsible for promptly exterminating rodents found by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken by the owner to eliminate rodent harborage and prevent re-infestation.
2. All exterior property, vacant land and premises not kept free of rubbish, garbage and debris.
 - a. The occupant or owner of any premises within the Township shall provide and maintain in good order, portable garbage and rubbish containers for the storage of all garbage and rubbish accumulated on said premises, equipped with handles and tightly fitted with lids, whose capacity shall not exceed forty (40) gallons.
 - b. No person shall cause or allow any garbage or rubbish or dead animals to be deposited on any street or public or private property.
 - c. It shall be the duty of every owner, tenant or occupant of any property in the Township to keep exterior property, vacant land and premises free from rubbish, garbage or dead animals which might become a menace to health, or an offensive sight or odor to residents of the Township.
 - d. No person shall place, throw or deposit garbage, refuse, waste, rubbish, papers, or decaying plant, animal or vegetable matter of any kind, including tree or plant cuttings, upon or along any street or highway, or upon public property, or along the bank of any stream or watercourse within the Township.

i. Nothing in the foregoing shall prohibit a person from maintaining a compost pile upon property owned or occupied by him on which may

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be thrown leaves, lawn clippings and other garden trimmings, so long as a nuisance shall not result there from.

Weeds

1. The growing or cultivation of noxious weeds as established under the noxious weed control list pursuant to Section 255.3(b) of the Pennsylvania Noxious Weed Control Law (3 P.S. 255.1 - 255.11).
2. Properties in developed neighborhoods shall be maintained substantially free of noxious weeds, grass or similar plant growth in excess of 12 inches in height or until such plant goes to seed.

Exception: Wooded lots.

301.4 Interest of public safety. In the interest of public safety, the following provisions shall be adhered to so not to pose a threat to the public health, safety or welfare.

1. Roof water, French drains, and property run off shall not be discharged onto streets or sidewalks or in a manner that creates a hazardous condition. Newly constructed storm water facilities cannot cause damage to adjacent property in accordance with the Township Stormwater Management Ordinance.
2. Planting of trees, hedges or other obstruction which prevents persons driving vehicles on public streets from obtaining a clear view of traffic is prohibited in accordance with guidelines established by Pennsylvania Department of Transportation. The owner or occupant shall remove limbs or dead trees that endanger pedestrians on streets or sidewalks, or traffic on public streets.
3. Areas of which a public or utility easement and/or right-of-way shall be maintained by owner of such premises, property or vacant land.

Exception: In the course of a utility provider maintaining said utility appurtenances, the easement/right-of-way shall be restored by utility provider to a condition equal to the condition prior to maintenance work. Utility provider shall not be responsible for replacing trees or shrubs planted in the easement or right-of-way.

4. It shall be unlawful for any dirt, mud, soil, stone or debris to be washed, tracked or otherwise deposited upon the pavement of any street. Any dirt, mud, soil, stone or debris deposited upon the pavement of any street shall be completely removed before 5:00 p.m. of the same day. Preventative control measures and intermediate cleanings may be deemed necessary by the Township.

301.5 Burning, open fires.

1. No person shall cause to be emitted into the open air from any open fire excessive smoke, excessive odor or malodorous emissions of which conflicts with the provisions of the Allegheny County Smoke Control Law.
2. Open burning shall be deemed allowed for the sole purpose of recreation, camping, or cooking on private property only.
3. Open burning shall be allowed upon inspection and issuance of a Recreational Fire Permit by the Township Fire Marshal, Code Official or Township Manager.
4. The Recreational Fire Permit Holder shall notify the O'Hara Township Police Secretary or voice mail system of the intended recreational fire a minimum of one hour prior to igniting the open fire.
5. Open burning shall be permitted within a permanent fire circle, fireplace or commercial fire pit.
6. Only dry, clean wood products or other clean-burning fuels are permitted for opening burning.
7. Only smokeless fuels, if any, are permitted to ignite the open fire.
8. The pile of material being burned may not exceed three (3) feet in diameter and two (2) feet in height.
9. The open fire must be at least ten (10) feet from the nearest structure, inhabited area, roadway, property line or utility.
10. Portable outdoor fireplaces must be ten (10) feet from the nearest structure, dwelling, roadway, property line or utility.
11. The open fire must be attended at all times until the open fire is extinguished.
12. Adequate means to control and extinguish the open fire shall be readily available at all times during any burning.
13. A class 4A fire extinguisher or garden hose shall be located close to the fire.
14. It shall be unlawful for any person or persons to light or ignite, within the Township boundary, on public or private land, brush, wood, grass, or material of any nature, the firing of which necessitates the attendance of the Township Volunteer Fire Department or Departments and/or any other Fire Department or Departments.

**ARTICLE IV
NOTICES AND ORDERS OF VIOLATION**

401.1 Notice to owner or to person or persons responsible. Whenever a violation of this ordinance has been determined to have occurred, notice shall be given to the owner of record of the parcel on which the violation has occurred and/or the person or persons responsible for maintaining said property, vacant land or premises in the manner prescribed below:

1. Reasonable efforts to make personal contact via in-person visit or telephone call.
2. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time based on the severity of the problem to comply with the provisions of this ordinance.
5. Include citation of ordinance violated and respective section and/or subsection.

401.2 Delivery of notice or order. Such notice or order shall be deemed to be properly delivered if:

1. Delivered personally; or
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in, on or about premises affected by such notice.

401.3 Transfer of ownership. Upon receipt of a notice of violation by the owner or individual responsible for maintaining property, it shall be unlawful for said person to sell, transfer, mortgage, lease or otherwise dispose of such property to another:

1. Until the provisions of the violation(s) has/have been complied with; or
2. Until such owner shall furnish to the Township a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required.

401.4 Failure to comply. Any person failing to comply with a notice of violation will be subject to fine and/or civil suit under Article VII.

**ARTICLE V
EMERGENCY MEASURES**

501.1 Imminent danger. When there is imminent danger of failure or collapse of a structure which endangers life, or when any part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the designated Township Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. Such structure shall be posted at each entrance with a notice reading: “This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Township of O’Hara.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

501.2 Temporary safeguards. Notwithstanding other provisions of this ordinance, whenever there is imminent danger due to an unsafe condition, the Township shall order the minimum necessary work to be done, including the boarding up of openings or demolition as deemed necessary to meet such emergency.

501.3 Emergency repairs. The Township shall employ the necessary labor and materials to perform the required work as expeditiously as possible provided the property owner cannot be immediately located or fails to take the proper action.

501.4 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the Township of O’Hara. If approved by the Council of the Township of O’Hara, the legal counsel of the Township of O’Hara shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

**ARTICLE VI
PENALTY**

601.1 Causes of action. In case any person, partnership or corporation who or which has violated or permitted the violation of any provision of this ordinance, the Township may institute any appropriate legal action or proceeding to prevent, restrain, correct or abate such violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct business or utilization of the building, structure or premises.

601.2 Fine. Any person, partnership or corporation who or which has violated or permitted the violation of any provision of this ordinance shall, upon being found liable in an enforcement proceeding commenced by the Township before the District Justice, pay a fine of not more than five hundred dollars (\$500.00) plus all court costs. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

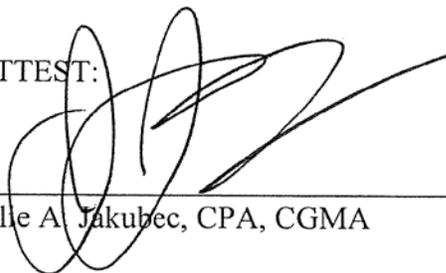
601.2.1 Each day that a violation of this ordinance occurs or continues shall constitute a separate violation, unless the District Justice determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments and costs collected for the violation of this ordinance shall be paid to the Township.

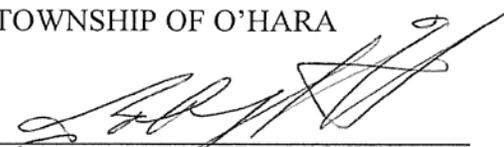
**ARTICLE VII
OTHER ORDINANCES AND RIGHTS**

701.1 Other ordinances. In the event of conflicts, this Ordinance shall take precedence over all ordinances or parts of ordinances.

701.2 Rights. Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

ORDAINED AND ENACTED INTO LAW this 12th day of November, 2013 by Township of O'Hara Council vote of 5 to 0.

ATTEST:

Julie A. Jakubec, CPA, CGMA

TOWNSHIP OF O'HARA

Robert John Smith
President of Council



First Reading	<u>Denny, Jr. - Bodkin</u>	<u>5 - 0</u>	<u>10/08/2013</u>
Public Hearing	<u>11/12/2013</u>		
Second Reading			
And Adoption	<u>Vogel - Frankowski</u>	<u>5 - 0</u>	<u>11/12/2013</u>
Advertised	<u>11/21/2013</u>	Codified	_____