

ORDINANCE NO. 2018-3_____
An Ordinance Adopting the Quality of Life and Violations Ticket
Process in the Township of Newport

PROPERTY MAINTENANCE RULES AND REGULATIONS

Section 1. Purpose.

Lack of maintenance of properties, littering, improper storage of trash and rubbish, storage of inoperable/non-registered vehicles, operations without permits, and accumulation of snow and ice are costly problems that contribute to the deterioration of property values and general disorder in a community. These problems degrade the physical appearance of the Township, which reduces business and tax revenue inhibiting economic development. The quality of life and community pride of the citizens of Newport Township are negatively impacted by the occurrences and existence of these activities. Recognizing these are community problems, the purpose of this Part is to promote the health, safety and general welfare of the Township by helping to create a clean environment for the citizens of Newport Township.

Section 2. Definitions.

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

AUTHORIZED LITTER RECEPTACLE - is a litter collection receptacle which is placed on the public right-of-way or on public property by the Borough for use by the public to deposit small quantities of hand -held trash, but not household or commercial waste.

DEBRIS - any material upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked, or piled in such a manner so as not to create a nuisance or become a harboring place or food supply for insects and rodents.

DUMPING - includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, etc.) small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products, and other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized by law.

GARBAGE the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HAZARDOUS WASTE - any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

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

HOUSEHOLD HAZARDOUS WASTE (HHW) - waste which would be chemically or physically classified as a hazardous waste, but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: toxic, flammable, reactive, or corrosive. HHW consists of numerous products that are common to the average household such as: pesticides and herbicides, cleaners, automotive products, paints, and acids.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

JUNKED VEHICLE - any vehicle which presents a hazard or danger to the public or is a public nuisance by virtue of its state or condition of disrepair.

The following conditions, if present, are examples of a state or condition of disrepair:

- (1) Rusted and /or jagged metal on or protruding from the body of the vehicle.
- (2) Broken glass or windows on or in the vehicle.
- (3) Leaking of any fluids from the vehicle or deflated or flat tire(s).
- (4) Unsecured and /or unlocked doors, hood, or trunk.
- (5) Storage or placement of the vehicle in an unbalanced condition, on concrete blocks, or other similar apparatus.

- (6) Harboring of rodents, insects, or other pests.

The foregoing examples are not inclusive of all conditions which may constitute a state or condition of disrepair. See also "motor vehicle nuisance."

LITTER - includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

LOCAL RESPONSIBLE AGENT - any person residing or working within the County of Luzerne designated to accept service on behalf of a legal owner or operator of a rental dwelling unit.

MOBILE VENDOR - a vendor or seller of food and/or goods from a vehicle or other conveyance upon the public streets or alleys of the Borough that does not typically remain stationary for more than approximately ten (10) minutes each hour.

MOTOR VEHICLE - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

MOTOR VEHICLE NUISANCE a motor vehicle with one or more of the following defects:

- (1) Broken windshields, mirrors, or other glass, with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.
- (3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
- (4) Protruding sharp objects from the chassis.
- (5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.
- (6) One or more open tires or tubes which could permit animal harborage.

- (7) Any vehicle suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.
- (8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.
- (9) Disassembled body or chassis parts stored in on or about the vehicle.
- (10) Vehicles that do not display a current valid inspection and/or registration.
- (11) Such other defects which the Fire Department determines to be a danger to the general public or property.
- (12) Motor vehicles parked, drifted, or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

MUNICIPAL WASTE - any garbage, refuse, industrial, lunchroom, or office waste, and other material including solid, liquid, semisolid, or contained gaseous material resulting from operation or residential, municipal, commercial, or institutional establishments or from community activities, and which is not classified as residual waste or hazardous waste as defined herein. The term does not include source separated recyclable materials or organic waste.

NUISANCE - any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, or welfare of citizens of the Borough, or causes a blighting effect in Borough neighborhoods. See also "public nuisance. 't

PERSON - every natural person, firm, corporation, partnership, association, or institution.

PLANTER STRIP - the non-concrete space in the sidewalk area filled with dirt and/or grass.

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

PUBLIC OFFICER - any police officer, authorized inspector, or public official designated by the Township to enforce the Township's ordinances.

PUBLIC NUISANCE - any conditions or premises which are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECYCLABLE MATERIAL - material which would otherwise become municipal waste, which can be collected, separated, or processed, and returned to the economic main-stream in the form of raw materials or products. These materials may include, but not be limited to, aluminum cans, ferrous and bi-metal cans, glass containers, plastic bottles and containers, mixed paper, white goods, major appliances, televisions, tires, and large auto parts.

RESIDUAL WASTE - any discarded material or other waste including solid, semisolid, or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations, excluding municipal water and sewer operations.

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, metals, mineral matter, glass, crockery, and dust and other similar materials.

SHADE TREE - unless otherwise specified, includes all trees, shrubs, and woody vegetation in the public right-of-way.

SIDEWALK AREA - the public right-of-way between the property line and the curb line or the established edge of the roadway.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials.

STORAGE - the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal as such waste, and it shall be presumed that the containment of any municipal waste in excess of three (3) months constitutes disposal.

TREE WELL - the non-concrete area surrounding a shade tree planted in a sidewalk area.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET - a form issued by a police officer or public officer to a person who violates a provision of this Part. The violation ticket is an offer by the Township of Newport extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator.

WEEDS - shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria:

- (1) Exceed six (6) inches in height.
- (2) Exhale unpleasant noxious odors or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush.
- (3) May conceal filthy deposits or serve as breeding places for mosquitoes, other insects, or vermin.
- (4) Encroaches onto neighboring properties by way of leaders or roots without property owners consent.
- (5) May cause a public nuisance.

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

YARD - an open space on the same lot with a structure.

Section 3. Quality of Life Violations.

1. Operating or Vending Without the Proper Permit/License. It shall be unlawful for any person, business, partnership, or entity to operate including, but not limited to, any business, vending cart, store, or establishment without the proper permits.
2. Storing of Hazardous Material. It shall be unlawful for any person, business or entity to store combustible, flammable, explosive, or other hazardous materials including, but not limited to, paints, volatile oils and cleaning fluids, or combustible rubbish including, but not limited to, wastepaper, boxes, or rags unless the storage of said materials is stored in compliance with the applicable Building Codes.

3. Storing or Serving of Potentially Hazardous Food. No individual or entity operating a business shall store or serve potentially hazardous food. Including, but not limited to, out of date food, food being stored above or below the appropriate temperature, food being stored directly on a flooring surface, infestation problems at the location, or serving food that had previously been open are considered a violation of this Part.
4. Violating the Terms of Any Vending License. It shall be unlawful to violate any term, part, portion or in total, any vending license. Any person, business, partnership, or entity violating their vending license shall be in violation of this Part.
5. Borough Permit to be Displayed. All Borough permits, building or otherwise, shall be displayed in a fashion that makes them visible from the roadway. In cases of demolition, the permit shall be displayed in the back window of a construction vehicle parked on site and visible from the roadway. Should a permittee not be able to comply with this requirement, they shall have to notify the License and Permit Office of the issue, and seek immediate authorization /approval.
6. Accumulation of Rubbish or Garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of waste, trash, rubbish, or garbage.
7. Animal Maintenance and Waste/Feces Clean-Up. People owning, harboring, or keeping an animal within the Township of Newport shall not permit any waste matter/feces from the animal to collect and remain on the property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. All waste from animals must be cleaned up on a daily basis.
8. Disposal of Rubbish or Garbage/Dumping. Improper disposal of rubbish or garbage, or dumping or disposing of rubbish or garbage on vacant, unoccupied, or other property.
9. High Weeds, Grass or Plant Growth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches (152.4 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation. Cultivated flowers, gardens, trees, and shrubs shall not be included as a violation of this Part.

10. Littering or Scattering Rubbish. No person shall throw, dump, place, sweep, or dispose of any waste, trash, garbage, or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or on any public property.
11. Motor Vehicles. It shall be unlawful to store, park, or place any unregistered, uninspected, inoperative, unlicensed, or nuisance motor vehicle on any premises. No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth
12. Outside Placement of Indoor Appliances/Furniture. It is prohibited to store or place any/all appliances or furniture including, but not limited to ranges, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except for the temporary purpose to perform maintenance on said property. If maintenance is being performed, or if the items are actively being sold in a yard sale, the items shall not be left unattended.
13. Ownership Presumption of Waste, Trash, and/or Recyclables for Illegal Dumping and Illegal Hauling. It shall be the responsibility of every owner and/or occupant to dispose of their waste, trash, or recyclables in a proper manner. Any business or person who is unable to show proof that they have legally disposed of any waste, trash, or recyclables will be in violation of this Part. Should any person or business use an unlicensed hauler to dispose of their waste, trash, or recyclables, said person or business shall be in violation of this Part. Upon request of the Public Officer, any owner or occupant must show proof of their appropriate trash and/or recyclable hauler. Any parts found within a municipal waste container, recycling container, garbage bag, or loose trash/waste displaying the name and/or address of a person and/or persons, that trash or waste shall be presumed to be the property of such person and/or persons. It shall be unlawful for any person, business, partnership, or entity to remove or haul waste, trash, or recyclables without the proper approval or license. Any waste, trash, or recyclables found not to be disposed of in accordance with this Part will be a violation of this Part.
14. Placement or Littering by Private Advertising Matter. No person shall throw, place, sweep, or dispose of litter or private advertising matter upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or any public property. No person, group, organization, or entity will hang, place, or advertise on any public property in any manner. No person, group, organization,

or entity will hang, place, or advertise on any property that they do not have any ownership rights to without the written approval of said owner.

15. Snow and Ice Removal from Sidewalks. Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Township of Newport , is required to remove any snow or ice from their sidewalk within twenty-four (24) hours of the cessation of said snow and ice falling. Furthermore, they must create a path, free from any snow or ice, of three (3) feet on said sidewalk. Should any property be a place of business within the Township of Newport , all snow and ice must be removed within four (4) hours of the cessation of said snow and ice falling. Any property that is deemed a business must have the entire sidewalk free from any snow and ice. If and/or when the snow and/or ice cessation happens during the hours of darkness, the time limit of removal of all snow and ice begins at daybreak.
16. Storage Containers for Waste or Trash. The owner of every premises shall supply approved containers for waste [trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and odor free at all times. All containers must be stored in the rear of every property so said containers are not visible from the public right-of way. Waste/trash containers may only be placed in front of any property not more than 24 hours before the scheduled pick up time. Once the licensed hauler removes the waste/trash from any property, all containers must be returned to the rear of any property before daybreak on the day following pick-up. (Example: Jim Smith's trash collection day is Wednesday. Jim Smith may place his trash containers out front of his property on Tuesday night, once night falls. Jim Smith must place his trash containers in the rear of his yard before daybreak, on Thursday morning.)
17. Storing of Recyclables. It shall be the responsibility of the owner of all residential, commercial, and industrial property to ensure storage, collection, and disposal of all recyclables from their property in such a manner not to create a public nuisance. Storage of recyclables is only allowed in approved containers, which must be kept clean and sanitary at all times.
18. Swimming Pools. Swimming pools shall be maintained in good repair at all times. They shall also be kept clean, safe, covered, and sanitary as well.
19. All persons shall post the Township refuse sticker in their front window in such a manner that it is clearly visible from the street.

Section 4. Authority for Issuance of Violation Ticket.

Upon finding a quality of life violation, any Public Officer, including police officers and code enforcement officials of the Township of Newport, may issue quality of life violation tickets to the owner and/or occupant of the property at issue or to the individual(s) known to have violated this Part.

Section 5. Enforcement.

1. The provisions of this Part shall be enforced by police officers, or any other public officer, including code enforcement officials, authorized to enforce ordinances.
2. Any violation of the provisions of this Part may be cause for a citation, a violation ticket, to be issued to the violator.

Section 6. Service.

A violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

Section 7. Separate Offense.

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

Section 8. Abatement of Violation.

1. Any person or business violating this Part is hereby directed to satisfy the Township of Newport and its citizens, upon issuance of a quality of life ticket, by correcting the violation in question. A public officer is authorized and empowered to cause a violation to be corrected. The cost shall be determined by the Township Code Enforcement Officer in order that the Township shall be compensated for both direct and indirect costs and expenses incurred.
2. The Township of Newport and/or its contractor, per the direction of the Township, reserves the right to abate the violation in question at the expense of the owner. If the Township has affected the abatement of the violation, the total

cost thereof to include hourly wages and all items and materials used may be charged to the owner of the property, tenant, or offending party. A bill/invoice will be generated to the violator for payment separate from the quality of life ticket, which will also be paid separately.

3. In all instances where the Township abates the violation, in addition to the fine set forth in the quality of life ticket, the Township is authorized to recover from the offending party, the owner of the property, or tenant the abatement charges and such other charges established by the Code Enforcement Officer and the rules and regulations.

4. Township of Newport Cleanup. The Borough reserves the right to perform any necessary work to abate any violation once forty-eight (48) hours passes from the date of issuance of the quality of life ticket. Should the violation at the discretion of the Code Enforcement Officer present imminent danger and/or pose a health hazard and/or risk, the Borough reserves the right to perform the abatement immediately. The Borough will perform this work at a rate of sixty (\$60.00) dollars per hour, per man, and forward the cost of any material necessary for the abatement. The Borough reserves the right to charge an additional twenty (20%) percent on all material purchases to cover all miscellaneous expenses, such as wear and tear on equipment.

5. Contractor Cleanup. The Borough reserves the right to direct a contractor to perform the abatement of the violation in question once forty-eight (48) hours passes from the date of issuance of the quality of life ticket. Should the violation present imminent danger and/or pose a health hazard and/or risk, the Borough reserves the right to direct the contractor to perform the abatement immediately. The contractor will submit a bill for their work to the Township of Newport and the Borough will forward these costs to the violator. The Borough reserves the right to add a thirty (30%) percent processing fee in addition to the cost of the contractor.

Section 9. Fines and Penalties.

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

Violation	Description	Fine	Abatement
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			Time
QOL-001	Operating or Vending without the Proper Permit/License	\$100.00	IMMEDIATE
QOL-002	Storing of hazardous material	\$100.00	IMMEDIATE
QOL-003	Storing or serving potentially hazardous food	\$100.00	IMMEDIATE
QOL-004	Violating the terms of a vending license	\$100.00	IMMEDIATE
QOL-005	Borough Permit to be Displayed	\$100.00	48 hours
QOL-006	Accumulation of rubbish or garbage	\$100.00	48 hours
QOL-007	Animal maintenance and waste/feces clean-up	\$100.00	48 hours
QOL-008	Disposal of rubbish or garbage. Dumping	\$50.00	48 hours
QOL-009	High weeds, grass or plant growth	\$50.00	48 hours
QOL-010	Littering or scattering rubbish	\$50.00	48 hours
QOL-011	Motor vehicles	\$50.00	48 hours
QOL-012	Outside placement of indoor appliances / furniture	\$50.00	48 hours
QOL-013	Ownership presumption of waste, trash and/or recyclables for illegal dumping	\$50.00	48 hours
QOL-014	Placement of littering by private advertising matter	\$50.00	48 hours
QOL-015	Snow and ice removal from sidewalks	\$50.00	48 hours
QOL-016	Storage Containers for Waste or Trash	\$50.00	48 hours
QOL-017	Storing of recyclables	\$50.00	48 hours
QOL-018	Swimming Pools	\$50.00	48 hours
QOL-019	Refuse sticker	\$50.00	48 hours

- B. Failure of the person to make payment within five (5) days of the date of the issuance of a violation ticket shall result in the filing of a citation, for failure to pay, with the Magisterial District Judge.
- C. If violations are continuous or egregious, Code Officials have the right to issue citations without first issuing tickets, provided notice has been given. Upon issuance of four (4) four tickets for the same violation, right is reserved for the Code Officials to issue citation for the fifth and subsequent offenses.

Section 10. Citation Fines.

Any person, firm, or corporation who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Part, or of any regulation or requirement pursuant hereto and authorized hereby shall be guilty of a Summary Offense, upon conviction before the Magisterial District Judge, be ordered to pay a fine of two hundred fifty dollars (\$250.00) on each offense, or imprisoned no more than ninety (90) days, or both.

Section 11. Restitution.

The Magisterial District Judge may order the violator to make restitution where appropriate.

Section 12. Severability.

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

Section 13. Superseding the International Property Maintenance Code – The provisions of this ordinance shall supersede the International Property Maintenance for violations contained herein.

Section 14. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 15. Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

Section 16. This Ordinance shall be effective thirty (30) days after its passage and approved in the manner prescribed by law.


Secretary

NEWPORT TOWNSHIP

President of Commissioners