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ARTICLE I

STREET ASSEMBLY OR PROCESSION

Section 101. Definitions

For the purpose of this Ordinance the words “assemblage” and “procession” shall have the following definitions:

- A. **ASSEMBLAGE** – a gathering of people without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street.
- B. **PROCESSION** – a group of individuals, vehicles, animals and/or objects moving along a street in a way that interferes with the normal movement of traffic, provided that procession shall not include a funeral caravan or a military convoy.

Ord. 1991-6, 8/20/1991, §1.

Section 102. Assembly Permit

It shall be unlawful for any person to hold or participate in any assemblage unless the person organizing or conducting the assemblage first obtains a permit from the Board of Supervisors. The fee for the permit shall be Ten Dollars (\$10.00). Application for the permit shall be made at least one (1) week in advance of the day on which the assemblage is proposed to be held, but in any case where a state designated highway is proposed to be used, application shall be made at least three (3) weeks in advance of the proposed date. The permit shall state the place where and the date when the assemblage may convene and the hour by which it shall be been completely dispersed. It shall be unlawful for any person to hold or to participate in any assemblage unless the permit has been granted, or at any time or place other than that authorized by the permit.

Ord. 1991-6, 8/20/1991, §2.

Section 103. Procession Permit

It shall be unlawful for any person to hold or participate in any procession unless the person organizing or conducting the procession first obtains a permit from the Board of Supervisors. Application for the permit shall be made at least two (2) weeks in advance of the days when the procession is proposed to be held, but in any case where a state-designated highway is proposed to be used, application shall be made at least three (3) weeks in advance of the proposed date. The permit shall specify the date on which the procession is to be held, the route to be followed by the procession, the hour when and place where participants may commence to assemble and form before the procession is under way, the time when the procession may commence along its route, and the time by which the end of the procession shall have reached the end of the route of the procession and the procession shall have been disbanded. It shall be unlawful for any person

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to hold or to participate in any procession unless the permit shall have been granted, or to hold or participate in any procession under any condition as to time or route or otherwise than those stated in the permit.

Ord. 1991-6, 8/20/1991, §3.

Section 104. Violations

Chapter 4, Article IV entitled “Civil/Criminal Enforcement Procedure”.

Ord. 1991-6, 8/20/1991, §4; superseded by Ord. 2001-2, 7/12/2001.

Section 105. Health, Safety and Welfare Purpose

It is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.

Ord. 1991-6, 8/20/1991, §5.

ARTICLE II

ROAD OPENINGS

Section 201. Title

This Ordinance shall be known and may be cited as the Ontelaunee Township Road Opening Permit Ordinance.

Ord. 2007-6, 10/4/2007, §1.

Section 202. Definitions

The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this Section except where the context clearly indicates a different meaning:

- A. **APPLICANT** – the person or entity filing an application under this Ordinance for a permit. Once a permit has been issued, the Applicant, or his assignee if the assignment of the permit shall have been approved by the Township Engineer, shall be deemed the “Permittee”.
- B. **EMERGENCY** – an unforeseen occurrence of combination of circumstances which calls for immediate action or remedy.
- C. **NEW ROAD** – a Township road having a new continuous and unbroken wearing surface consisting of mechanically placed bituminous hot mix or cement concrete material, whether placed over newly constructed base and sub-base or over a modified or unmodified previously existing road surface.
- D. **PERMIT** – a road opening permit issued by the Township pursuant to this Ordinance.
- E. **PERSON** –any natural person, firm, copartnership, association, corporation or political subdivision.
- F. **PennDOT** – Pennsylvania Department of Transportation.
- G. **PUBLICATION 213** – a PennDOT publication containing requirements for work area traffic control during highway maintenance operations and utility work, including any amendment thereto and any substitution or replacement thereof.
- H. **PUBLICATION 408** – a PennDot publication containing PennDOT’s highway construction specifications, including any amendment thereto and any substitution or replacement thereof.

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- I. **RIGHT-OF-WAY** – the area between right-of-way lines of a road.
- J. **ROAD** – a strip of land, including the entire right-of-way, open to vehicular use by the public. The term “road” shall include road, avenue, boulevard, highway, freeway, parkway, lane, alley or viaduct.
- K. **TOWNSHIP** – the Township of Ontelaunee, Berks County, Pennsylvania.
- L. **TOWNSHIP ENGINEER** – the person so designated by the Board of Supervisors or his representative so designated either by the Board of Supervisors or by the Township Engineer.
- M. **TOWNSHIP ROAD** – a road under the jurisdiction of the Township.
- N. **TOWNSHIP SUPERVISORS** – the Board of Supervisors of the Township of Ontelaunee, Berks County, Pennsylvania.

Ord. 2007-6, 10/4/2007, §2.

Section 203. Permit Required

- A. It shall be unlawful for any person, including any municipal authority, to perform any work involving the opening of or the exaction in or under any Township road unless and until a permit therefore has been secured from the Township. All work performed within the right-of-way of the Township road shall conform to the provisions of PennDOT Publication 213, PennDOT Publication 408 and any other related PennDOT publications that involve regulations for work within public rights-of-way, and the latest amendments to those PennDOT publications; unless superseded by more restrictive specifications that may be issued and made available by the Township. A permit shall not be required, however, in the following instances:
 - 1. Placing of newspaper receptacles or mailboxes.
 - 2. Accessing a utility facility through a manhole.
- B. In the case of emergency repairs for utility facilities, a permit shall not be required prior to making an opening in the road and repairing the facility; however a permit shall be required prior to placement of final backfill material and permanent pavement restoration.

Ord. 2007-6, 10/4/2007, §3.

Section 204. Openings and New Roads

A. Notice of Improvements

When the Township shall improve or pave any road, the Township shall give notice to all persons owning property abutting on the road about to be paved or improved, and to all public utilities and municipal authorities operating in the Township. All such persons, public utilities and municipal authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the road, within ninety (90) days from the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Township.

B. Restrictions Upon Opening New Roads

No permit shall be issued by the Township which would allow an excavation or opening in a paved and improved road surface less than five (5) years old unless the applicant can clearly demonstrate that public health or safety required that the proposed work be permitted or unless an emergency condition exists.

C. Penalty for Opening New Roads

If, by special action of the Township, a permit is issued to open any paved and improved road surface less than five (5) years old, a penalty charge shall be made for the opening, except that the penalty shall be waived in the event the work is of an emergency nature. The penalty charge shall be on a sliding scale and shall be equal to three percent (3%) of the cost of restoring the opening, per month or fraction thereof remaining in the five (5) year restricted period.

Ord. 2007-6, 10/4/2007, §4.

Section 205. Administrative Requirements

A. Application for Permit

An application for a permit required by this Ordinance shall be submitted to the Township in duplicate. The application shall be accompanied by a fee as determined by resolution. All fees received by the Township shall be paid into the Township Treasury.

B. Conditions of a Permit

A permit shall only be used upon condition that the applicant enter into an agreement with the Township in the form of the agreement that is attached to this Ordinance as Exhibit "A", requiring a cash deposit in an amount determined by the Township Engineer to ensure proper completion of the work and compliance with the requirements of this Ordinance for the performance, construction and maintenance of the road opening. Any expenses incurred by the Township to correct a violation of the requirements of this Ordinance shall be reimbursed to

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the Township from the cash deposit. Upon completion of the work authorized by the permit, the Township may release up to eighty percent (80%) of the cash deposit. At the expiration of one (1) year from the date of completion, the balance of the deposit shall be released upon approval of the Township Engineer that the road repair has been performed and maintained as required by the provisions of this Ordinance.

C. Life of the Permit

A permit shall be valid until completion date specified on the permit. If the permittee has not completed all authorized work by the completion date specified on the permit, an application shall be submitting requesting a time extension. If approved, a supplement will be issued by the Township.

D. Additional Inspection Fee

If the fees incurred by the Township for processing the permit and inspecting the pavement restoration exceed the application fee, the additional fees will be paid to the Township out of the cash deposit required in Paragraph B of this Section.

E. Authorization to Begin Work

A permit issued in accordance with the requirements of this Ordinance will be the applicant's authority to proceed with the work and will serve as a receipt for the fees accompanying the application. The permittee shall notify the Township Engineer forty eight (48) hours in advance of any backfill or pavement restoration work so that the work may be inspected as it is performed.

F. Additional Notifications

At least forty eight (48) hours in advance of beginning work in a road, the permittee shall notify the Township office, the Schuylkill Valley School District, and all emergency service providers, as identified on the permit.

G. Work Completion Notification

When all permitted work has been completed, the Township Engineer shall issue notification of same, in writing, to the Township and the permittee, noting the date upon which the one (1) year maintenance period has begun.

H. Additional Deposits and Fees

Should the costs of restoration and/or inspections exceed the amount of the cash deposit required by Paragraph B of this Section, the applicant shall, upon written notification from the Township, immediately reimburse the Township for any portion of the cost associated with making the inspections and/or restorations not covered by the cash deposit.

I. Road Restoration Details

All restoration shall be constructed in accordance with the standard details attached to this document, as amended from time to time by resolution.

Ord. 2007-6, 10/4/2007, §5.

Section 206. Penalty for Violation

Any person who violates or permits a violation of this Ordinance shall be subject to a civil penalty not to exceed Six Hundred Dollars (\$600.00) per violation. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefore in civil enforcement proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in enforcement proceedings. The civil enforcement proceedings shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.

Ord. 2007-6, 10/4/2007, §6.

ARTICLE III

DRIVEWAYS

Section 301. Definitions

The following words when used in this Ordinance, unless the context clearly indicates otherwise, shall be defined as follows:

- A. **CLEAR SIGHT TRIANGLE** – an area of unobstructed vision at the intersection of a driveway and highway defined by lines of sight between points forty feet (40') from the point of intersection of the center lines of the driveway and highway.
- B. **RIGHT-OF-WAY AREA** – the area between the right-of-way lines of any street, as below defined.
- C. **STREET** – Any street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or other thoroughfare appearing on the topographical survey or records of the Township, recorded subdivision plan or as established by Ordinance and open to public use, or any other roads maintained by the Township.
- D. **MINIMUM USE DRIVEWAY** – a residential driveway that serves three (3) units or less or a non-residential driveway with an average daily traffic volume of twenty-five (25) vehicle or less.
- E. **MEDIUM VOLUME DRIVEWAY** – a residential driveway that serves more than three (3) units or a non-residential driveway with an average daily traffic volume of more than twenty-five (25) vehicles.

Ord. 2003-5, 11/6/2003, §1.

Section 302. Work on Driveway Entrances Within Rights-Of-Way; Permit Required

- A. It is hereby declared unlawful for any person, firm or corporation to grade for, construct or repair a driveway that accesses a street of Ontelaunee Township, Berks County, Pennsylvania, except as hereinafter provided.
- B. Any person, firm, corporation or other entity desiring to grade, provide surface water drainage over or through, construct and/or repair a driveway that accesses a street of Ontelaunee Township shall first obtain a permit therefor from the Code Enforcement Officer of the Township for issuing the aforesaid permit only after the following conditions have been satisfied:

1. The filing of a written application with the Code Enforcement Officer, upon such form as approved by the Board of Supervisors, setting forth the location, purpose and description of the improvement or work to be done.
 2. The approval of said application by the Code Enforcement Officer.
 3. The payment of a permit fee, as set by resolution of the Board of Supervisors at the time of filing an application with the Code Enforcement Officer, for an additional ninety (90) days, upon application and payment of an additional fee for each such ninety (90) day extension.
- C. The form of application and permit and fee schedules shall be adopted from time to time by the Board of Supervisors by resolution. A copy thereof shall remain on file at the Township office.
- D. All new grading and construction, including provisions for surface water drainage, of a driveway accessing a street of the Township shall be performed in accordance with the following standards:
1. All driveways shall be constructed in a manner that will not impede or divert the normal flow of surface drainage. The grade and construction of all driveways shall be in accordance with the standards and specification contained herein. Where the driveway grade exceed eight percent (8%), a levelling area shall be provided adjacent to the roadway to allow safe ingress and egress during wet and/or slippery driving conditions. The leveling area grade shall not exceed eight percent (8%) and shall extend a minimum of twenty feet (20') from the edge of the cartway.
 2. All driveways shall be constructed in a manner that prevents stones, soil or other debris from being deposited in the right-of-way. All driveways that slope down to the Township road shall be provided with a swale on the uphill side of the driveway. The swale shall be of a proper dimension to adequately convey storm runoff from a ten-year storm to the low point of the driveway or to intermediate water bars. The swale shall intercept storm runoff before it reaches the driveway surface, unless the driveway is paved. All unpaved driveways shall be sloped away from the uphill side swale so that driveway stones are not washed into the swale. Intermediate water bars may be used in order to reduce the amount of runoff reaching the bottom of the swale and to more closely follow pre-existing drainage patterns. If used, water bars must be paved and may not direct concentrated runoff onto an adjacent property.
 3. All portions of medium volume driveways shall be paved. Paving composition shall be as specified in Subsection 5 below.
 4. Driveway width, radii at the Township road, and angle of intersection to the Township road shall comply with the following:

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		Minimum Use	Medium Volume
Width	-min.	10'	10' per travel lane
	-max	20'	15' per travel lane
Return radius	-min	5'	15'*
	-max	15'	50'*
Angle of Intersection	-min	75°	75°
	-max	105°	105°

*As dictated by expected type of vehicles

5. As part of the driveway construction the owner shall provide bituminous or concrete paving extending for a minimum distance of twenty feet (20') from the edge of the cartway. For Minimum Use driveways, the paving shall consist of a minimum of a six inch (6") stone base course and two and one-half inches (2 ½") bituminous course or equal paving approved by the Township. For Medium Volume driveways, the proposed paving cross section shall be submitted to the Township for review and shall be subject to Township approval. The swale should be maintained or the pipe should be located four feet (4') from the edge of the cartway, or as directed by the Township Engineer.
6. All driveways utilizing concrete driveway aprons shall comply with the driveway apron requirements contained in the Ontelaunee Township Subdivision and Land Development Ordinance.
7. The use of drainage pipes under a driveway may be permitted or required under the following circumstances:
 - a. Where a drainage ditch or roadside swale exists along the Township road.
 - b. Where it is impossible or impractical to maintain drainage flow without a pipe.
 - c. Approval of the use of drainage pipes is subject to the following conditions:
 - i. Calculations shall be submitted showing that the proposed pipe will pass a ten-year storm (residential driveway) or 25-year storm (non-residential driveway) from the contributing drainage area without flooding the Township roadway. Runoff calculations shall be based upon the United States Department of Agriculture Soil Conservation Service Soil-

Cover-Complex Method, the Rational Formula of $Q=CIA$, or any other method acceptable to the Township Engineer.

- ii. The minimum pipe size shall be twelve inches (12") in diameter.
 - iii. The owner agrees in writing to maintain the pipe in good condition free of debris and siltation. If the township must replace pipe, the landowner will bear the expense.
 - iv. The owner agrees in writing to relocate and/or replace the pipe if at some future date the Township improves or widens the public road requiring such relocation and/or replacement.
8. The side slopes for driveway embankments within the Township road right-of-way shall not be steeper than ten to one (10:1).
9. Grade requirements shall conform to Figure 1.
- a. For grade changes greater than those shown in Figure 1, vertical curves at least ten feet (10') long shall be constructed and length A shall be increased, subject to approval of the Township.
 - b. Grades (G2) shall be limited to fifteen percent (15%) for minimum use driveways and ten percent (10%) for medium volume driveways.
 - c. Maximum grade change (D) shall be as follows:

Driveway Type	Desirable (percent)	Maximum (percent)
Medium Volume	3%	8%
Minimum Use	4%	Controlled by vehicle underclearance conditions

10. Clear sight requirements
- a. The sight distance for all driveways shall comply with the requirements for state highways prescribed by the Pennsylvania Department of Transportation, as codified at 67 P.S. § 441.8, and any amendments and addenda thereto.
 - b. All clear sight triangles required by the provisions of this chapter shall be kept clear and maintained free of obstructions to vision,

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and no person shall place, plant, deposit or permit the placement, planting or deposit of any material, bush, fence, tree, shrub, or other obstruction of a height greater than thirty inches (30") or tree limbs lower than eight feet (8') with such clear sight triangle.

11. The near edge of all minimum use driveways shall be a minimum of fifty feet (50') from the edge of the cartway of the nearest intersecting public or private street. The near edge of all medium volume driveways shall be a minimum of one hundred fifty feet (150') from the edge of the cartway of the nearest intersecting public or private street.
- E. Any repairs to a conforming driveway, including storm water drainage facilities, that access a street of Ontelaunee Township shall be performed in such a manner so that said repairs shall not change the original design and specifications, or if a new design and specifications are proposed, they shall be submitted to the proper Township official for approval in accordance with Subsection B of this Section.
- F. Any repairs to a nonconforming driveway, including storm water drainage facilities, that accesses a street of the Township, shall be performed in such a manner as to change the design and specifications to conform to the design criteria and requirements set forth in Subsection D of this Section.

Ord. 2003-5, 11/6/2003, §2.

Section 303. Term of Permit

All permits granted under the terms of this Chapter shall be valid for a period of one (1) year from the date of issuance, and all work must be completed within that time. All requests for renewals and/or extensions of time relative to the construction or installation of the driveway shall be submitted to the Code Enforcement Officer who shall review the same and forward such request, accompanied by his comments thereon, to the Board of Supervisors for its decision. Any and all renewals and extensions shall not exceed an additional one (1) year period.

Ord. 2003-5, 11/6/2003, §3.

Section 304. Indemnification of Township

Any person, firm, corporation or other entity applying for any permit under this Chapter shall indemnify the Township of Ontelaunee against all liability of whatever nature arising during the performance of work or as a result of work for which a permit is granted whether or not the said liability arises as a result of the negligence of the person, firm, corporation or other entity to whom the permit was issued.

Ord. 2003-5, 11/6/2003, §4.

Section 305. Violations and Penalties

Any person, firm or corporation, or the members of such firm or the officers of such corporation, who or which shall violate any provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than Fifty Dollars (\$50.00) nor more than Six Hundred Dollars (\$600.00) and/or to imprisonment for a term not exceed thirty (30) days. Every day that a violation of this Chapter continues shall constitute a separate offense. All fines collected for the violation of this Chapter shall be paid to the Treasurer of the Township for the general use of the Township.

Ord. 2003-5, 11/6/2003, §5.

Section 306. Effect on Exhibit Provisions

The provisions of this Chapter, so are as they are the same as those of Ordinance and Codes in force immediately prior to the enactment of this Chapter, are intended as a continuation of such Ordinances and/or Codes. Nothing in this Chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued or approval granted or any cause or causes of action, including actions to enforce any right to penalty or punish any offense under the repealed Ordinance arising prior to the enactment of this Chapter.

Ord. 2003-5, 11/6/2003, §6.

Section 307. Dangerous Condition of Driveway

Whenever any private driveway entrance becomes, in the opinion of the Board of Supervisors, in a dangerous condition, or in such a condition as to obstruct the flow of runoff water or likely to damage the Township road, notice shall be given to the owner or owners of the lot or lots abutting thereon to repair or replace the driveway entrance, in conformance with the attached Standard Private Driveway Layout Specifications, and upon his, her, its or their failure to do so within thirty (30) days after written notice by the Board of Supervisors, said Board of Supervisors shall cause the same to be done in the manner herein provided and said Board of Supervisors shall collect the cost thereof and ten percent (10%) additional, together with all charges and expenses, from the owner or owners of the lot or lots abutting thereon in the manner provided by law.

Ord. 1992-8, 10/8/1992, §2.

Section 308. Indemnification of Township

Any person, firm or corporation applying for any permit under Section 307 of this Ordinance shall indemnify the Township of Ontelaunee against all liability of whatever na-

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ture arising during the performance of work or as a result of work for which a permit is granted, whether or not the said liability arises as a result of the negligence of the person, firm, or corporation to whom the permit was issued.

Ord. 1992-8, 10/8/1992, §3.

Section 309. *Penalties and Remedies for Violation of Section 307*

- A. Any person who violates or fails to comply with the provisions of Section 307 of this Ordinance or any order, law or regulation made in connection therewith, shall upon conviction thereof pay a fine not exceeding Five Hundred Dollars (\$500.00), and in default of the payment thereof, undergo imprisonment in the Berks County Prison for a period not exceeding thirty (30) days; provided that each day such violation continues to occur shall constitute a separate offense.
- B. The Board of Supervisors may revoke any permit issued to any person, firm or corporation violating any of the provisions of this Ordinance.
- C. The imposition of penalties herein prescribed shall not preclude the Township of Ontelaunee from instituting an appropriate action or proceeding to prevent the performance of work or acts declared to be unlawful under the provisions of this Ordinance, or to restrain, correct or abate a violation, or seek relief by a complaint in equity.

Ord. 1992-8, 10/8/1992, §4.

Section 310. *Other Ordinances*

Notwithstanding anything here above set forth in this Ordinance, whenever the provisions of this Ordinance shall be inconsistent with the provisions of the Township Subdivision or Zoning Ordinances as from time to time are in effect and the provisions of said Township Subdivision and Zoning Ordinances are more restrictive or contain more stringent requirements than are set forth herein, then in such event the provisions of the Township Subdivision and Zoning Ordinances shall prevail and be applicable.

Ord. 1992-8, 10/8/1992, §6.

ARTICLE IV

SURFACE SUPPORT AND EXCAVATIONS NEAR PUBLIC ROADS

Section 401. Definitions

Unless otherwise expressly stated the following words and phrases shall be construed throughout this Ordinance to have the meaning herein indicated:

- A. **PERSON** – shall include any individual, partnership, association, firm or corporation.
- B. **TOWNSHIP** – shall mean Ontelaunee Township, Berks County, Pennsylvania.
- C. **PUBLIC ROAD** – shall include any road, street, avenue, thoroughfare, court, alley, place and highway, located in Ontelaunee Township, Berks County, Pennsylvania, and opened for public use and travel.

Ord. 1964-2, 2/27/1964, §1.

Section 402. Surface Support

No person shall dig, mine, remove or carry away or cause the digging, mining, removal or carrying away of any dirt, rock, earth, stone or other natural minerals or materials from the natural support of the surface from any public or private property within fifty feet (50') of the right-of-way of any public road without having first placed, built, erected and constructed such permanent artificial support of the surface as shall be determined to be sufficient by the Board of Supervisors of the Township to be adequate to preserve the stability of the surface of said public road or roads. The Board of Supervisors in making its determination shall take into consideration the soil of the immediate area, the type, width and construction of the public road or roads and the amount and type of traffic on said public road of roads.

Ord. 1964-2, 2/27/1964, §2.

Section 403. Fencing of Excavations

No person shall remove or excavate or cause the removal or excavation of any rock, stone, earth or other natural minerals or materials from any public or private property within one hundred feet (100') of the right-of-way of any public road so as to cause an excavation more than ten feet (10') in depth from the surface of said property without having first erected within ten feet (10') of the area to be excavated an adequate wooden or metal fence no less than six feet (6') feet in height; provided, however, that this requirement shall not apply to any such excavation for the foundation, cellar or basement of a building to be erected over such excavation or to any excavation dug for a water system or sewage system appertinent thereto.

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Ord. 1964-2, 2/27/1964, §3.

Section 404. Violations and Penalties

Chapter 4, Article IV entitled “Civil/Criminal Enforcement Procedure”.

Ord. 1964-2, 2/27/1964, §4; superseded by Ord. 2001-2, 7/12/2001.

Section 405. Nuisance

In addition to the remedies provided in Section 404 above, any continued violation of this Ordinance which shall constitute a nuisance in fact or which shall in the opinion of the Board of Supervisors of Ontelaunee Township constitute a nuisance may be abated by proceeding against the violator in a court of equity or by any proceeding authorized by law.

Ord. 1964-2, 2/27/1964, §5.