

ORDINANCE # 9 OF 1992

BOROUGH OF THROOP PENNSYLVANIA
NUISANCE ORDINANCE

An Ordinance of the Borough of Throop, Lackawanna County, Pennsylvania, defining nuisance, prohibiting the creation of, or maintenance of nuisance, providing for the removal or abatement of nuisance, and prescribing penalties for violations.

WHEREAS, the creation, maintenance and accumulation for storage of junked, abandoned or discarded vehicles, junk trailers, boats, appliances, household furnishings, debris and unfinished buildings, foundations, structures and nuisances creates a hazard and danger to the health and welfare of the citizens of Throop; and

WHEREAS, the creation, maintenance and accumulation or storage of junked, abandoned or discarded vehicles, junk trailers, boats, appliances, household furnishings, debris and unfinished buildings, foundations, structures and nuisances creates an unattractive nuisance for children who are not aware of the danger involved therein; and

WHEREAS, the creation, maintenance and accumulation or storage of junked, abandoned or discarded vehicles, junk trailers, boats, appliances, household furnishings, debris and unfinished buildings, foundations, structures and nuisances, violates all concepts of ecological and environmental principles.

SECTION 1:

WHEREFORE, the Borough of Throop passes this Ordinance for the protection of the health, safety, moral, general welfare and property of its inhabitants.

SECTION 2:

The following words or phrases when used in this Ordinance shall have the meanings ascribed to them in this section except when the context of the ordinance indicates a different meaning:

- a) Person shall mean a natural person, the members of an unincorporated association, all of the partners of a partnership, and the officers and Board of Directors of a corporation.
- b) Junked shall mean items sold or to be sold for scrap, being stripped or being used or sold for parts.
- c) Junk shall mean any discarded material or article and shall include but not be limited to scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, paper, rugs, glass, container, wood lumber and structure.
- d) Abandoned shall mean any item resting for 96 hours or more and which is inoperable, without current registration plates, certificate or inspection, or in such a condition as to be unusable.
- e) Discarded shall mean any item resting for 96 hours or more with no known or apparent owner.
- f) Vehicle shall mean an automobile, motorcycle, minibike, bicycle, go-cart, truck or other wheeled means of conveyance, motorized or self-propelled.
- g) Trailer shall mean a wheeled device use as a means of carrying, hauling or conveying any vehicle, person, animal, object or boat.
- h) Appliance shall mean a stove, refrigerator, television, furnace, water heater, water softener, washer, dryer, any household, and articles used in business to increase production or to speed, ease or eliminate work.
- i) Household furnishings shall include all items of comfort, or convenience found and used in a home.
- j) Debris shall mean dead trees, weeds, shrubbery, limbs or portions thereof which have become detached and have fallen to the ground and may also include, but is not limited to abandoned and broken equipment, hazardous pools, ponds and excavations, neglected machinery, broken or discarded furniture or household equipment left to accumulate private property for more than thirty (30) days, packaging bores and other debris, live vegetative growth, metal, lumber, and paper stored on private premises, or left unbound or unattended.

- k) Unfinished building shall include but shall not be limited to, buildings or structures damaged or partially destroyed or in a state of disrepair or danger or partially built and unattended.
- (l) Foundation shall include but shall not be limited to the base upon which any building did, or was intended to, stand upon.
- (m) Structure shall include but shall not be limited to any building in a state of disrepair or danger, or any connected mass of objects in a state of disrepair or danger.
- (n) The word "nuisance" as used in this ordinance shall mean any use of property within the borough, or any condition upon property within the borough other than infrequently, which causes or results in: (i) annoyance or discomfort to persons beyond the boundaries of that property; (ii) interference with the health and/or safety of persons beyond the boundaries of that property or of persons who might reasonably be expected to enter upon or be in that property; and/or (iii) disturbance to or interference with the peaceful use of the property of other within the borough, that is, adjacent or contiguous property, or property owners, or users of property, in any case, taking into consideration the type of use, the location of the use or condition and use of the surrounding neighborhood. Specifically the word nuisance shall include but shall not be limited to the following:

(1) The loud playing of any sound device, musical instrument, television, radio, tape-player, CD-player, audio product, amplifier, or related musical or audio equipment so as to be heard beyond the premises or locale from which the same shall emanate on any weekday before 9:00 A.M. or after 8:00 P.M., or any Saturday or Sunday before 10:00 A.M. or after 9:00 P.M.

(2) Operating gasoline powered lawn mowers or gasoline powered chain saws on any week day before 8:00 A.M. or any Saturday or Sunday before 9:00 A.M.

(3) Operation of model airplanes or any other kind of model equipped with gasoline or any public street or any public ground, including playgrounds.

(4) Keeping or harboring any dog(s) or other animal or fowl, which by frequent howling or barking or other noises or odor shall annoy or disturb the general area of a neighborhood or a number of persons.

(5) Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:

- a) Open wells or cisterns;
- b) Open excavations;
- c) Lakes, ponds or swimming pools not properly safeguarded;
- d) Stagnant water in pools in which mosquitoes, flies or insects multiply;
- e) Weeds or uncultivated vegetation which are over one (1) foot tall.

(6) Carrying on any building or road construction, excavation or trenching, or the operation of heavy equipment or trucks in connection therewith at any time on Sunday or legal holiday, or on any other day of the year at any time between 9:00 P.M. and 6:00 A.M., without a special permit issued by the Throop Borough Zoning and Code Enforcement Officer or Chief of Police. The special 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 such a manner or in such place that the public or residents will not be annoyed or disturbed by that construction work.

(7) Carrying on construction work in such a manner that dirt is carried by wind onto adjacent properties or that mud is tracked or drained into streets adjacent to the project.

(8) Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the same before 9:00 P.M. on the day on which the same was deposited thereupon.

(9) Using any property or operating any business or other activity so as to permit or cause smoke, soot, cinders, fly ash, dust, mud, dirt, acid, noxious or

offensive fumes, gases or odors to be discharged into the air or to be carried off the premises, or to cause any water to become polluted by sewage, industrial waste(s), acid, or other substance, or to cause a glare from lights or noise of such character as to cause annoyance to residents or interference with the normal, peaceful, quiet use of adjacent property.

(10) Creating or maintaining "attractive nuisance" so defined as the leaving of a dangerous instrumentality or condition which by its character is dangerous and attractive to children and in or near a place frequented or likely to be frequented by children (minors) or can be accessed by children (minors).

SECTION 3:

It shall be unlawful for any person to accumulate or store junked, abandoned or discarded vehicles, junk, trailer, boats, appliances, household furnishings, debris, unfinished building foundations, unused building products, pipes, beams, joints and the like, and structures and/or to create, continue to cause, maintain or permit to exist a nuisance at any place within the Borough.

SECTION 4:

Any person who creates, continues, causes, maintains or permits to exist any nuisance at any place within the Borough shall within ten (10) days after being given due notice of such nuisance by either the Throop Borough Zoning and Code Enforcement Officer or the Chief of Police shall remove or abate that nuisance and comply with this ordinance. If that person fails, neglects or refuses to abate that nuisance within the time limit, the Zoning and Code Enforcement Officer or Chief of Police shall have the authority, in person or by its agents and/or employees, to remove or abate the nuisance, and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, Council shall direct the collection of the cost and expense of the abatement or removal of the nuisance from the person who created, continued, caused or maintained the nuisance and/or permitted it to exist, that person having failed, neglected or refused to remove or abate the nuisance, with an additional amount of ten (10%) percent, in the manner provided for the collection of municipal claims or by an action in law, provided the cost and expense may be in addition to any penalty imposed under Section 5 of this Ordinance.

SECTION 5:

Any person who violates any provision of this ordinance shall be guilty of an offense, and for every such offense, shall upon conviction, be sentenced to pay a fine of not more than \$300.00 and costs of prosecution, including attorney fees, and in default of payment of fine and costs to imprisonment for not more than thirty (30) days. Provided: each day on which a violation shall exist or continue to exist, after notice from the Zoning and Code Enforcement Officer or Chief of Police, as provided in Section 4 of this Ordinance, shall constitute a separate offense.

SECTION 6:

This Ordinance shall not be constructed to be the sole means for abatement of nuisances within the borough, and nothing shall preclude any person from proceeding individually or with other injured person to affect the abatement of a private nuisance. Furthermore, in the exercise of the powers conferred in this Ordinance, the Borough may institute proceedings in equity or in law.

SECTION 7:

The provisions of this Ordinance are severable and if any word, clause, sentence, section or provision of this Ordinance is unconstitutional, the remaining words, clauses, sentences, sections and provisions shall not be impaired thereby.

SECTION 8:

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ORDAINED AND ENACTED in law this 30th day of March,
1992

BOROUGH OF THROOP


PRESIDENT

ATTEST:


SECRETARY