

NUISANCE ORDINANCE

ORDINANCE NO. 287

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF WAMPUM, LAWRENCE COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES, STORING OR ACCUMULATING ABANDONED OR JUNKED MOTOR VEHICLES JUNK MATERIAL, ABANDONED OR UNOCCUPIED BUILDINGS OR PARTS OF BUILDING IN A STATE OF DILAPIDATION OR DISREPAIR ON PRIVATE OR PUBLIC PROPERTY WITHIN THE BOROUGH; PROVIDING FOR THE REMOVAL THEREOF ON PUBLIC OR PRIVATE GROUNDS AFTER NOTICE TO THE OWNERS TO DO SO, AND IN DEFAULT THEREOF, TO COLLECT THE COSTS OF SUCH REMOVAL BY THE BOROUGH; AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Council of the Borough of Wampum, Lawrence County, Pennsylvania deem it to be in the best interests and general welfare of the citizens and the residents of this Borough to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to others in the legitimate enjoyment of their rights of person or property; and WHEREAS, 53 P.S. § 46202 of the Borough Code of the Pennsylvania Statutes authorizes Boroughs to prohibit nuisances, to remove same and to impose Penalties therefore.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is enacted and ordained by the Council of the Borough of Wampum, Lawrence County, Pennsylvania, as follows:

SECTION 1. DEFINITION: For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

1. "Borough" is the Borough of Wampum, which is located within the confines of Lawrence County, Pennsylvania.
2. "Council" is the Council of the Borough of Wampum, Lawrence County, Pennsylvania.
3. "Owner" is a person owning, leasing, occupying or having charge of any premises within the Borough.
4. "Person" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

5. "Vegetation" is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.

6. "Nuisance" is the unreasonable, unwarrantable, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his or her reasonable rights of a person or property.

7. "Abandoned or Junked Motor Vehicles" is any vehicle in non-serviceable condition or without having both a current inspection sticker and current registration plate.

SECTION 2. NUISANCES DECLARED ILLEGAL: Nuisances, including, but not limited to the following, are hereby declared to be illegal:

A. Storing or accumulating the following:

1. Garbage, ashes, refuse or rubbish.

(a) Garbage: Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce. It shall be unlawful to place or permit to remain anywhere in the Borough any garbage or other material subject to decay other than leaves or grass, excepting in a tightly covered container; excepting that a mulch heap is permitted, which is properly maintained for gardening purposes and does not materially disturb or annoy persons of ordinary sensibilities in the neighborhood. It shall be unlawful to any individual, firm or corporation to store more than 14 days of garbage as defined by this Ordinance that may pose a potential health and safety problems to the community.

(b) Refuse/rubbish: Combustible trash, including paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, leaves, wood furniture, bedding; noncombustible trash, including metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including street sweeping; dirt, catch-basin dirt, contents of letter receptacles. Provided, refuse shall not include earth and wastes from building operations, nor shall it include leaves, cornstalks, stubble or other vegetable material generated in the course of harvesting agricultural crops. It shall be unlawful to cause or permit to accumulate any dust, ashes or trash of such a material that it can be blown away by the wind anywhere in the Borough excepting in a covered container.

(c) Ashes: Residue from fire used for cooking and for heating buildings.

2. Junk Material, including, but not limited to, unused or abandoned machinery, equipment or appliances, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvageable materials, unless for resale, then can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Borough, or by the Commonwealth of Pennsylvania.

B. Storing or accumulating abandoned or junked motor vehicles, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Borough, or by the Commonwealth of Pennsylvania. All such vehicles must be moved in 60 days, or if at vehicle repair business, 90 days.

C. Storing or accumulating more than three (3) antique or collector motor vehicles for restoration which are neither sheltered by a building, nor enclosed behind an evergreen or solid fence as permitted by applicable zoning ordinances; or storing or accumulating in a non-orderly fashion three (3) or less antique or collector motor vehicles for registration.

D. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or any foul or offensive water or foul or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley: or from any property into or upon any adjoining property.

E. Draining or flowing, or allowing to drain or flow, any water or drainage from within dwelling situate upon property along public highway, road, street, avenue, lane, or alley in the Borough into or upon the cartway or traveled portion for said drainage by means of a drainage ditch or otherwise.

F. Burning of tires, tar products or garbage.

G. Maintaining or causing to be maintained, any dangerous structure, including but not limited to, abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.

H. Permitting the growth of any grass, weeds, noxious weeds, or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, to conceal any rubbish, garbage, trash or any other violation of this Ordinance.

I. Permitting or allowing any well or cistern to be, or remain, uncovered.

J. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by the Borough or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.

K. Allowing or permitting any excavation, material excavated or obstruction on or adjoining any highway, street, or road, to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.

L. Interfering with the flow of a stream, creek or other waterway, by means of dam construction or otherwise, or removing the embankment of a stream so as to alter the natural flow of the stream.

M. Defacing Public and Private Property:

1. It shall be unlawful for any person, partnership, corporation or agent acting independently or under the direction of the principal to deface any private or public buildings, structures, signs, banners, or vehicles within the Borough. Examples of Defacing shall include but not be limited to the following examples; application of paint, inks and dyes; affixing of any printed materials such as signs or posters; destruction or removal; defacing in any manner.

N. Spotlighting – prohibiting certain uses of spotlights from roads in the Borough. No person shall shine any spotlight from any place on public roads in the Borough, into any fields, woodlands, forests, waters, or other lands outside the main traveled portions of the roads, at any time between the hours of sunset and 11:00 o'clock p.m., prevailing time, on any day.

1. Person – any human being, group of human beings, or other legal entity or group of legal entities;

2. Shine – the throwing or casting of the rays of a spotlight.

3. Spotlight – any lamp, light, or other artificial device designed to direct a beam of light, regardless of the size of such beam or the intensity thereof and regardless of the area of actual illumination thereby. Spotlights shall include, but not be limited to, all vehicle headlamps, flashlights, arc lights, and any other devices that direct an intense beam of light on a small area.

4. Exceptions – none of the following acts shall be deemed prohibited by this Ordinance:

(a) Use of a spotlight by any policeman, other law enforcement officer, game protection, fireman, or other emergency officer or government official, in the performance of his or her official duties;

(b) Use of a spotlight by any person engaged in and for the purpose of assisting in, any rescue operation, any search for or apprehension of any criminal or fugitive from justice, any search for any lost or abducted person, or the lighting of any way or direction of travel for purposes of lawful travel, whether on or off such public road;

(c) Use of a spotlight by any person engaged in and for the purpose of assisting in, illuminating the scene of any crime, disaster, public disturbance, or other public event, but the intentional shining of spotlights at or for the purpose of discovering any deer, or other game or domestic animals shall not be deemed excused by this exception;

(d) Any incidental and peripheral or accidental illumination by any spotlight otherwise in lawful use.

O. Permit or cause the emission of any offensive or foul odor, scent, effluvia, emanation or fume within the Borough limits, except as normal and customary in farming activities.

P. Place, throw or put on any street, road, lane or alley of the Borough any tacks, nails, sharp pieces of iron, glass bottles, briars, thorns or other dangerous and similar substances which may injure a person, animal or puncture a rubber tire.

Q. For any person, except by permission of Council to play amplify or listen to music by any manner including home stereos, vehicular sound systems and portable "boom boxes", to beat any drum or drums, blow any horn or horns, or otherwise make any unusual noise, disturbing the peace after 11:00 p.m. which can be heard a distance of 150 feet from its source or such person's property line or; for any person to make, continue or cause to be made or continued any unnecessary or unusually loud noise which annoys, disturbs, injures or endangers the comfort health, safety or peace of others within and which can be heard a distance of 150 feet from its source or such person's property line between the hours of 11:00 p.m. and 7:00 a.m.

R. Additionally, any person committing or maintaining a nuisance as defined in and prohibited by Chapter 65 of Title 18 of the Pennsylvania Consolidated Statutes shall be punishable as provided therein.

SECTION 3. WRITTEN NOTICE TO VIOLATORS REQUIRED: It shall be the duty of the Police Department to see that this Ordinance is properly enforced. Whenever a condition constituting a nuisance is permitted or maintained, a Police Officer shall cause written notice to be served upon the owner in one of the following manners:

1. By making personal delivery of the notice to the owners; or
2. By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides, but if no adult member of the family is found, then to an adult person in charge of such residence; or
3. By fixing a copy of the notice to the door at the entrance of the premises in violation; or

4. By mailing a copy of the notice to the last known address of the owner by certified mail; or

5. By publishing a copy of the notice in a local newspaper of general circulation within Lawrence County, Pennsylvania, once a week for three (3) successive weeks. Such notice shall set forth in what respect such condition constitutes a nuisance, whether removal is necessary and required by the Borough, or whether the situation can be corrected by repairs, alterations or by fencing or boarding, or in some way confining and limiting the nuisance.

Such notice shall require the owner to commence action in accordance with the terms thereof within twenty (20) days and thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the provisions of Section 2(F), (I), (J), or (K) is violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

SECTION 4. PENALTY FOR VIOLATION: This Ordinance regulates building, housing, property, maintenance, health, fire, public safety, air or noise pollution, and shall be enforced pursuant to the Borough Code of the Pennsylvania Statutes.

1. Enforcement thereof shall be by an action before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure. The Borough Solicitor may assume charge of the prosecution with the consent of the District Attorney as required under Pa. R. Crim. P. 454 (c) (relating to trial in summary cases). Council hereby sets a criminal fine in the minimum amount of Two Hundred (\$200.00) Dollars, up to a total fine not to exceed the amount of One Thousand (\$1,000.00) Dollars per violation, and the costs of prosecution, and, in default of payment of such fine and costs of prosecution, to undergo imprisonment of not more than thirty (30) days, provided, further, that each day's continuance of a violation shall constitute a separate event.

2. The Borough may direct the removal, repair, or alterations, as the case may be, to be done by a Police Officer and to certify the costs thereof to the Borough, the cost of such removal, repairs or alterations, together with a penalty of ten percent (10%) of such cost, shall be a lien upon such premises from the time of such removal, cutting, repairs and alterations which date shall be determined by the certificate of the person doing such work, and filed with the Borough Secretary.

3. The Borough, by means of a complaint in equity, may compel the owner of the premises to comply with the terms of any notice of violation, or seek any such other relief as any such court of competent jurisdiction is empowered to afford.

SECTION 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 6. REPEAL: All ordinances or parts or provisions of such ordinances which are in conflict with the provisions hereof, shall be and the same are hereby expressly repealed.

SECTION 7. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its enactment and as otherwise provided by law.

ORDAINED AND ENACTED at a duly constituted and held regular meeting of the Council of the Borough of Wampum, Lawrence County, Pennsylvania, this 10<sup>th</sup> day of July, 2006.

BOROUGH OF WAMPUM, LAWRENCE  
COUNTY, PENNSYLVANIA

By: Harold Dougherty  
President of Council

ATTEST:

Susan Beall  
Secretary

Read and approved by me this 12<sup>th</sup> day of July, 2006.

John Steffen  
Mayor