

BOROUGH OF DURYEA

ORDINANCE NO. 2010-3

ORDINANCE OF THE BOROUGH OF DURYEA, LUZERNE COUNTY, PENNSYLVANIA, RELATING TO NUISANCES AND THE PROMOTION OF THE PUBLIC HEALTH AND SAFETY; PROVIDING FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR THE REGULATION OF RODENT CONTROL; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES INCONSISTENT HERewith; PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The Borough of Duryea has numerous Ordinances related to the regulation of public nuisances and providing for the health and safety of the borough residents;

WHEREAS, the Council of the Borough of Duryea believes that it would be in the best interests of the residents of the Borough to consolidate these numerous Ordinances into one, comprehensive Ordinance providing for the regulation and abatement of public nuisances; and

WHEREAS, the Council for the Borough of Duryea is empowered to regulate and prohibit public nuisances within the Borough , pursuant to §1202(4) & (5) of the Borough Code; and

WHEREAS, the Council for the Borough of Duryea believes it to be in the best interests of the Borough to consolidate the existing nuisance Ordinances into one comprehensive nuisance Ordinance; repeal the prior existing Ordinances; and to increase the fines imposed by the Borough for public nuisances.

NOW THEREFORE, the Borough Council of the Borough of Duryea does hereby ordain and enacted as follows:

SECTION 1. TITLE: This Ordinance may be cited as the “Duryea Borough Public Nuisance Ordinance”.

SECTION 2. DEFINITIONS:

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

- (a.) **BOROUGH** – The Borough of Duryea, Luzerne County, Commonwealth of Pennsylvania.
- (b.) **BUSINESS BUILDING** – Any structure, whether public or private, that is adapted for occupancy for the transaction of business; for rendering professional services; for amusement; for the display, sale or storage of goods, wares or merchandise; or for

the performance of work or labor, including hotels, apartment buildings, tenement houses, rooming houses, office buildings, public building, stores, theatres, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories, and all sheds, barns and other structures on the premises used for business purposes.

- (c.) CODE ENFORCEMENT OFFICER – The person(s) or agency designated by the Borough Council to enforce the Borough’s Ordinances.
- (d.) FIREWOOD – Wood intended to be used as fuel in a heating apparatus.
- (e.) LUMBER – Timber sawed into boards, planks or structural members of standard or specified length.
- (f.) NUISANCE – The unreasonable, unwarrantable or unlawful use of property which causes injury, damage or annoyance to any person in the legitimate enjoyment of such person’s reasonable rights of person and property.
- (g.) OCCUPANT – The individual, partnership, association or corporation that uses or occupies any business building or part of, or fraction thereof, whether the actual owner, agent or custodian shall have the responsibility of the occupant.
- (h.) OWNER – The actual owner, agent or custodian of the property or building, whether the same be an individual, partnership, association or corporation. The lessees shall be construed as the owner for the purposes of this Ordinance when the business building agreements hold the lessee responsible for maintenance and repairs.
- (i.) PERSON – Any natural person, firm, association, partnership or corporation.
- (j.) RAT ERADICATION – The elimination or extermination of rats within buildings by any or all of the accepted measures such as poisoning, fumigation, trapping and clubbing.
- (k.) RAT HARBORAGE – Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside any structure.
- (l.) RATPROOFING – Applies to a form of construction to prevent the ingress or rats into buildings from the exterior or from one building or establishment to another. It consists essentially of treatment with materials impervious to rat gnawing of all actual, or potential openings in exterior walls, ground or first floors, basements, roofs and foundations that may be reached by climbing or burrowing.
- (m.) SCRAP, REFUSE and JUNK ARTICLES – any discarded materials or articles, which shall include, but not limited to, scrap metal; machinery; ice boxes; freezers; dryers; washing machines; stoves; other household appliances; equipment; paper; glass; containers; rags; used heating and plumbing supplies and/or materials; lumber;

scrapped, abandoned or junked motor vehicles, or unlicensed motor vehicles. It shall not include refuse or garbage kept in a proper container for the purpose of prompt disposal by the Borough garbage collection system, or a private hauler.

SECTION 3. MAINTENANCE OF NUISANCE PROHIBITED:

It shall be unlawful for any person to maintain, or permit to be maintained, a nuisance on any property owned or occupied by such person within the limits of the Borough of Duryea.

SECTION 4. PROHIBITED ACTS and CONDUCT:

The owner of any premises (as to vacant premises or premises occupied by the owner or leased by the owner to another) and also the occupant, tenant or lease holder, if the premises are occupied by another than the owner themselves, shall not permit on any part of the premises any one or more of the following:

(a.) The storage or maintenance in the open of any one or more of the following articles: scrap metal; machinery; ice boxes; freezers; dryers; washing machines; stoves; other household appliances; equipment; paper; glass; containers; rags; used heating and plumbing supplies and/or materials; lumber; scrapped, abandoned or junked motor vehicles, or unlicensed motor vehicles (unless duly licensed as a used-car dealer by the Commonwealth of Pennsylvania), unless said articles are housed or enclosed in a rodent proof, locked and secured structure.

The storage of any of the aforesaid articles in the open or outside of a rodent proof, locked and secured structure (a structure enclosed with a roof, four walls or sides, and maintained in good order so that rodents may not readily take harborage therein, or children have access thereto) is prohibited and declared to be a nuisance to the health, safety and welfare to the residents of the Borough of Duryea, and the violation of the same renders the owner(s) and/or occupant(s) of the premises to be subject to the penalties herein provided.

(b.) The keeping or suffering to remain upon the premises any garbage, offal, carcass, putrid matter or any other offensive or unwholesome matter, except in proper metal or plastic containers for the proper disposal thereof through the garbage collection system being furnished by the Borough, or by privately contracted hauler.

(c.) The permitting of any grass, weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six (6) inches, or to emit any unpleasant or noxious odor or to conceal any filthy deposit or to create or to produce pollen, or whenever the same shall cause or contribute to any of the following conditions:

i. Encroachment upon any public sidewalk, street, highway, alley, right-of-way and/or inconvenience, endanger, annoy and/or cause impediment of persons legally using such public thoroughfare.

ii. Prevention or obstruction of the clear view of the operators of motor vehicles at any intersection of public thoroughfares which may cause danger to the motor vehicle traffic on any public thoroughfare.

iii. Cause or aggravate hay fever or other allergy diseases.

iv. Cause or tend to cause the breeding or growth of mosquitoes, flies and/or other insects.

v. Cause or tend to cause the breeding, growth or harboring of rats, mice and/or other rodents.

vi. Creation of a fire hazard.

vii. Constitute a detriment to the public health, welfare and safety of the residents of the Borough and to the users of the public thoroughfares of the Borough of Duryea.

Any grass, weeds or other vegetation growing upon any premises in the Borough in violation of any of the provisions of the section is hereby declared to be a nuisance to the health, safety and welfare to the residents of the Borough of Duryea, and the violation of the same renders the owner(s) and/or occupant(s) of the premises to be subject to the penalties herein provided.

The owner or occupant of the premises shall remove, trim or cut grass, weeds or other vegetation so growing or remaining upon such premises so that such grass, weeds or other vegetation will conform to the requirements of this Ordinance.

(d.) It shall be unlawful for any person to maintain or permit to be maintained on any property owned or occupied by such person within the limits of the Borough of Duryea any condition detrimental to the health to the residents of the Borough, and any such condition shall constitute a nuisance to the health, safety and welfare to the residents of the Borough of Duryea, and the violation of the same renders the owner(s) and/or occupant(s) of the premises to be subject to the penalties herein provided.

(e.) It shall be unlawful for any person to have, cause or permit the existence of any dangerous structure on public or private property within the Borough of Duryea, and the same shall constitute a nuisance to the health, safety and welfare to the residents of the Borough of Duryea, and the violation of the same renders the owner(s) and/or occupant(s) of the premises to be subject to the penalties herein provided.

(f.) All business buildings in the Borough of Duryea shall be ratproofed, freed of rats and maintained in a ratproof and rat-free condition to the satisfaction of the Code Enforcement Officer.

(g.) All food and feed kept within the Borough of Duryea for the feeding of chickens, cows, pigs, horses and other such animals shall be stored in rat-free and ratproof containers, compartments, rooms or buildings.

(h.) It shall be unlawful for any person to dump or place, or to permit the dumping or placing on any premises, land or waterways within the Borough any garbage, offal, carcass, putrid matter or any other offensive or unwholesome matter.

(i.) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage, rubbish or trash in any building or on any premises, improved or vacant or on any open lot or alley in the Borough, in such manner that the same shall or may afford food harborage for rats, rodents, or other wild animals.

(j.) It shall be unlawful for any person to place or permit to accumulated on any premises, improved or vacant lot, or on any open lot or alley in the Borough of Duryea any lumber, boxes, barrels, bottles, cans, containers or similar materials unless the same shall be placed on open racks that are elevated not less than eighteen (18) inches above the ground and evenly piled or stacked. Firewood shall be neatly stacked and/or stored under cover, free from insects (termites, ants; etc.) or any type of disease-carrying rodents.

(k.) The outside storage of automobile, truck or any other type of tire used predominately on any type of vehicle driven on public roadways is hereby prohibited, except if stored in an enclosed structure. For any of the type of tires mentioned herein, stored in an enclosed structure, the owner of said tires shall take appropriate steps to insure that said tires stored outside do not accumulate water in the wheel wells.

SECTION 5. ABATEMENT OF NUISANCES:

(a.) In the event any person shall be in violation of any of the provisions of this Ordinance, the Borough Council may order the abatement or removal of any such nuisance or dangerous structure by the owner, reputed owner or occupier of such property after thirty (30) days written notice to do so directed to such owner and occupier personally or by certified mail addressed to them at their last known address, or by posting the premises in question if none of the above could be found or ascertained. Upon default of the owner and/or occupier of such premises to abate or remove such nuisance or dangerous structure as so ordered, the Borough may abate or remove the same. The costs of such abatement, together with a penalty of ten (10%) percent of such cost, legal fees and court costs shall be collected in the manner provided by law for the collection of municipal claims, and/or a municipal lien may be filed of record for the same.

(b.) The Borough Council, or any officer or employee of the Borough designated thereby for this purpose, is hereby authorized to give notice either by personal service or by ordinary first class United States mail to the owner and/or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of this ordinance, which notice shall direct and require

such owner or occupant to remove, trim or cut such grass, weeds or other vegetation so as to conform to this Ordinance within Ten (10) days after the issuance of such notice. In the case that any owner or occupant shall neglect, fail or refuse to comply with such notice within the period of time sated therein, the Borough authorities may go onto the premises and may remove, trim or cut such grass, weeds or other vegetation without giving any further notice to the owner or occupant. The cost thereof, together with the penalty of this Ordinance and any additional penalty authorized by law, may be collected by the Borough from the owner or occupant in the manner provided by law.

SECTION 6. PENALTY:

Any person who violates any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Two Hundred Fifty (\$250.00) Dollars for a first offense; Five Hundred (\$500.00) Dollars for a second offense; and a fine not to exceed One Thousand (\$1,000.00) Dollars for each subsequent offence, plus the costs of prosecution. In default of payment thereof, such person shall be imprisoned for not more than Ten (10) days for the first offense and Thirty (30) days for any subsequent offense.

SECTION 7. REPEALER:

Ordinances 82 of 1982; 5 of 1986; 3 of 2003; and 4 of 2000; of the Borough of Duryea are hereby repealed, and all Ordinances, Code Sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

SECTION 8. SEVERABILITY:

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court or competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance.

SECTION 9. EFFECTIVE DATE:

This Ordinance shall be effective thirty (30) days after it has been approved by the Mayor, or in default thereof, thirty (30) days after it is deemed approved by operation of law.

DULY ENACTED AND ORDAINED into law this 10 day of August, 2010.

Borough of Duryea,

Audrey Marcinko
Audrey/Marcinko, Council President

Attested:

Lois Morreale
Lois Morreale, Borough Manager

Approved the 10 day of August, 2010.

Mayor Keith Moss
Keith Moss, Mayor