

Borough of Throop
Lackawanna County, Pennsylvania

Ordinance No. 3 of 2020

AN ORDINANCE OF THE BOROUGH OF THROOP, COUNTY OF LACKAWANNA, COMMONWEALTH OF PENNSYLVANIA, DESIGNATED AS THE "QUALITY OF LIFE ORDINANCE" GOVERNING CERTAIN PROPERTY MAINTENANCE VIOLATIONS, PROVIDING FOR ENFORCEMENT OF VIOLATIONS OF THIS ORDINANCE, INCLUDING THE ABATEMENT OF THE VIOLATION, ASSESSMENT OF DIRECT AND INDIRECT COSTS OF CLEANUP, FINES AND ESTABLISHMENT OF A TICKET PROCESS.

WHEREAS, the Borough of Throop has experienced an increase in the failure of property owners to appropriately maintain their properties and structures located within the Borough, causing a negative effect on the quality of life, health, safety, and general welfare of Borough residents and their guests; and

WHEREAS, the Borough of Throop considers the increase in failure of proper maintenance of properties and structures to be a public nuisance because said conditions are detrimental to the health and safety of residents of the Borough; and

WHEREAS, in an effort to protect the health, safety, and general welfare of Borough residents and their guests, as well as Borough property values, Council desires to implement an ordinance providing for the issuance of tickets, citations, and penalties to owners and/or occupiers of properties that are not appropriately maintained, in a timely manner, for quality of life violations.

NOW THEREFORE, BE IT ORDAINED AND ENACTED, and it is hereby enacted by the Borough Council for the Borough of Throop, Lackawanna County, Pennsylvania, as follows:

Section 1: Short Title

This ordinance shall be known as the Borough of Throop "Quality of Life Ordinance."

Section 2: Purpose

The lack of maintenance of properties, littering, improper storage of trash and rubbish and storage of inoperable/nonregistered vehicles, are problems that negatively impact the public health, safety, and general welfare of the Borough residents and their guests, and contribute to the deterioration of property values and general disorder in the Borough. These problems degrade the physical appearance of the Borough, which reduces business and tax revenue, inhibiting economic development. The quality of life and community pride of the citizens of the Borough are negatively impacted by the occurrences and existence of these activities. Recognizing these are community problems, the purpose of this Article is to

promote the health, safety and general welfare of the Borough by helping to create a clean environment for the citizens of Throop.

Section 3: Scope

The provisions of this Ordinance shall apply to all existing and future properties and fixtures. All violations of current and future Throop Ordinances can be enforced through this “Quality of Life” Ordinance including the Uniform Construction Code and the International Property Maintenance Code.

Section 4: Definitions

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

ABANDONED MOTOR VEHICLE – Any motor vehicle that:

- (a) Is inoperable and is left unattended on public property for more than forty-eight (48) hours; or
- (b) Has remained illegally on public property for a period of more than forty-eight (48) hours; or
- (c) Is left unattended on or along a public highway without a valid registration plate or valid and current inspection; or
- (d) Has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.

ADDRESS – Any numerical sign, placard or any other display which identifies the street address of any dwelling unit or structure.

ADULT – Any person 18 years of age or older.

DANGEROUS TREES – Any tree that is considered dangerous and unsafe to the public due to overgrowth, disease, instability, harmful insects or a dead tree.

DEBRIS – Any material upon the premises that is a residue of structural demolition, or any other material which creates a nuisance or becomes a harboring place or food supply for insects or rodents.

DUMPING – Includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, televisions, inoperable lawnmowers, inoperable snowblowers, air conditioning units, etc.), small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products or other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized.

DWELLING UNIT – One or more rooms, including a kitchen or kitchenette and sanitary facilities in a dwelling structure, designed as a unit for occupancy.

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

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

JUNK MOTOR VEHICLE – Any motor vehicle which is either unable to move under its own power or does not have a valid registration plate and a valid and current inspection sticker, or has any of the following physical defects:

- (a) Broken windshields, mirrors or other glass;
- (b) One or more flat or open tires or tubes;
- (c) Missing doors, windows, hood, trunk, or other body parts;
- (d) Any body parts with sharp edges including holes resulting from rust;
- (e) Missing tires;
- (f) Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle;
- (g) Broken vehicle frame suspended from the ground in an unstable manner;
- (h) Leaking or damaged oil pan or gas tank which could cause fire or explosion;
- (i) Exposed battery containing acid;
- (j) Open or damaged floorboards including trunk and firewall;
- (k) Damaged bumpers pulled away from the perimeter of the vehicle;
- (l) Broken grill with protruding edges;
- (m) Such other defects that could threaten the health, safety and welfare of the citizens of the Borough of Throop.
- (n) If a vehicle is tarped or covered and the owner or person responsible for said vehicle refuses to remove the tarp for the proper Borough official the vehicle shall be considered to be an abandoned or junk motor vehicle.

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, pallets, inoperable lawnmowers, inoperable snowblowers, shopping carts, construction or demolition material, recyclable material, dirt, mud and yard waste that has been abandoned or improperly discarded, deposited or disposed.

NUISANCE - Any activity, conduct or condition which causes injury, damage, hurt, inconvenience, annoyance or discomfort to the public as necessarily comes in contact with such activity, conduct, or condition, and which adversely affects the same's safety, health, morals, or general welfare, including aesthetics. See also Throop Ordinance No. 20 of 1998.

OCCUPANT – Any persons who lives in or has possession of or holds an occupancy interest in a dwelling unit; or any person residing in or frequenting the premises of the dwelling unit with the actual or implied permission of the owner or lessee.

PUBLIC OFFICER – Any police officer, authorized inspector, or public official designated by Throop Council to enforce Borough Ordinances.

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 – Includes material which would otherwise become municipal waste, which can be collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products. Such materials may include, but not be limited to, aluminum cans, ferrous and bimetal cans, glass containers, plastic bottles and containers, and paper.

WASTE – Any garbage, refuse, industrial, lunchroom or office waste, and other material, including solid, liquid, semisolid, or contained gaseous material resulting from operation of 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.

Any terms not defined herein shall have their ordinary meaning.

Section 5: Quality of Life Violation

The following shall be considered a quality of life violation:

- A. Accumulation of rubbish, garbage, junk or litter. It shall be unlawful for any person, business or entity to allow the accumulation of rubbish, debris or garbage upon their property or premises, including but not limited to the following:
- (1) All exterior property and premises, and the interior of every structure, shall be kept free from any accumulation of waste, trash, rubbish, debris or garbage.
 - (2) 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, TVs, computers or electronic components, dishwashers, mattresses, recliners, sofas, interior chairs or interior tables, junk motor vehicles, abandoned motor vehicles, inoperable lawn mowers, inoperable snowblowers on the exterior of any property for the purpose of sale or any other reason, except for the temporary purposes of keeping the item on the exterior of the property for a period of less than twenty-four (24) hours for the purpose of maintaining the item or removing the item from the real property.
 - (3) Refrigerators and similar equipment, including, but not limited to,

washers, dryers, dishwashers and ranges not in operation shall not be discarded, stored or abandoned on any premises without first removing the doors.

- B.** 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 in compliance with the applicable fire and/or building codes, and at least 10 feet away from the public right-of-way.
- C.** Storing of recyclables. Storage of recyclables is only permitted in approved containers which must be kept clean and sanitary at all times.
- D.** Storage containers for waste or trash.
- (1) All containers that store waste or trash shall be in compliance with Borough of Throop Ordinance No. 20 of 1998.
 - (2) All containers must be stored so that said containers are not visible from the public-right-of-way.
- E.** Littering, scattering rubbish or dumping.
- (1) No person shall throw, dump, place, sweep or dispose of any litter, waste, trash, garbage, tobacco product or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, right of way or on any public property.
 - (2) The improper disposal of rubbish or garbage or dumping or disposing of rubbish or garbage on vacant, unoccupied, or other property is prohibited.
 - (3) Any violation of Borough of Throop Ordinance No. 20 of 1998 shall be considered a violation of this part and may also be enforced and ticketed as such.
- F.** Motor vehicles.
- (1) It shall be prohibited to keep a nuisance vehicle, abandoned vehicle, junk vehicle as defined in Borough of Throop Ordinance No. 20 of 1998.
 - (2) It shall be prohibited to maintain a “motor vehicle nuisance” as defined in Borough of Throop Ordinance No. 20 of 1998, which is not otherwise permitted under Section II of said Ordinance.
 - (3) Any violation Borough of Throop Ordinance No. 20 of 1998 shall be considered a violation of this part and may also be enforced and ticketed as such.

- G. Placement or littering by private advertising matter.
- (1) 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, right of way or any public property.
 - (2) No person, group, organization or entity will hang, place or advertise on any property that they do not have any ownership rights to without written approval of said owner.
- H. Animal maintenance and waste/feces cleanup. People owning, harboring, keeping or responsible for an animal within the Borough of Throop:
- (1) Shall not permit them to run at large or make unreasonable noise.
 - (2) Shall not allow waste matter/feces from the animal to collect or remain on their property so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition and shall clean it up on a daily basis.
 - (3) Shall clean up waste matter/feces from the animal deposited anywhere else in the Borough immediately.
 - (4) Shall not be in violation of Borough of Throop Ordinance No. 20 of 1998, a violation thereof shall be a violation under this part and ticketed as such.
- I. Insects or vermin. Infestation of insects or vermin shall not be allowed to continue, and the owner or occupant of any infested property shall report same to the Police Department, and/or Code Enforcement of the Borough and take appropriate steps to abate said infestation without unnecessary delay. Failing to do so is a violation.
- J. High weeds, grass, plant growth or standing water. All premises and exterior property shall be maintained and water shall not be allowed to stand or accumulate in a manner that would attract insects or vermin. All such plant growth shall otherwise be in compliance with Borough of Throop Ordinance No. 20 of 1998 and the provisions of the International Property Maintenance Code and Uniform Construction Code adopted therein and any violation thereof shall be considered a violation of this part and may also be enforced and ticketed as such.
- K. 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 Borough, is required to remove any snow or ice from their sidewalk within 24 hours after the cessation of snowfall.
- L. Swimming pools shall be maintained in good repair at all times. They shall also be kept clean, safe, sanitary, and covered when not in regular use.

- M. Property maintenance. Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound, in good repair, and in compliance with Borough of Throop No. 20 of 1998 and the provisions of the International Property Maintenance Code and Uniform Construction Code adopted therein. Any violation of the Borough's Ordinance No. 20 of 1998, shall be considered a violation of this part and may also be enforced and ticketed as such.
- N. Water Diversion.
- (1) No person shall cause water collected in a gutter or gutter system to be deposited onto the public right of way.
 - (2) No person shall cause a pump, whether a sump pump or otherwise, to deposit water onto the public rights of way.
 - (3) No person shall cause for ground water, storm water, wastewater or any other source of water to be deposited onto the public rights of way.
- O. Sidewalks. All sidewalks shall be in good repair and free of defect and/or hazard, and otherwise shall be in compliance with Borough of Throop Ordinance No. 20 of 1998.
- P. Proper Identification of Properties. All persons owning or occupying structures located on property situated in the Borough of Throop shall maintain adequate numerical signs or other display apparatus, that signifies the structure's proper street address. The displays shall show the proper street number in its entirety. Numerical displays shall be positioned in a manner, affixed to the structure, to be visible from the public right-of-way. It shall be unlawful for persons owning or occupying a structure to fail to install and/or maintain displays as set forth above.
- Q. 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 sold 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.
- R. Defacement of Property.
- (1) No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

- (2) It shall be unlawful for any property owner to fail restore any surface that exhibits any mutilation or defacement on any exterior surface on any structure they own located in the Borough of Throop.

Section 6: Authority for Issuance of Violation Letters, Tickets and Citations

Upon finding a quality of life violation, the Borough of Throop Code Enforcement Officer may issue a Notice of Violation letter to the owner and/or occupant of the property at issue or to the individual known to have violated this Article. The Notice of Violation letter shall include a statement of the violation, the maximum time frame to take corrective action and detail the fine for failure to take corrective action within the prescribed time frame.

Section 7: Service.

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

In the event the owner and/or occupant fails to take corrective action, the Code Enforcement Officer will issue a violation ticket, upon receipt the owner and/or occupant has five (5) days to (a) admit the violation and pay the fine in full satisfaction or (b) deny the violation and request an appeal before Throop Council.

If Throop Borough Council confirms a violation the owner and/or occupant will have five (5) days to pay the fine. Failure to pay the fine will result in a complaint filed with magistrate.

Section 8: Separate offense.

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

Section 9: Abatement of violation.

- A. Any person or business violating this Article is hereby directed to, upon issuance of a quality of life letter, correct the violation in question. Public officers are authorized and empowered to cause a violation to be corrected.
- B. The Throop Code Enforcement Officer is authorized and empowered to correct or abate any violation which in the discretion of the officer constitutes a clear and present danger to the health and safety of the community.
- C. If Throop Borough has taken action to correct the violation, the cost thereof

shall be charged to the individual or property owner to whom the ticket has been issued.

Section 10: Fines and Penalties

- A. For the first instance of a violation of this Ordinance within a 12-month period, violation tickets shall be issued in the amount of \$50.00.
- B. For the second violation of this Ordinance within a 12-month period, violations tickets shall be issued in the amount of \$75.00.
- C. For the third violation of this Ordinance within a 12-month period, violations tickets shall be issued in the amount of \$100.00
- D. Upon issuance of three tickets under this Ordinance, the Borough reserves the right to issue a citation for each subsequent offense.

Section 11: Violation Ticket Penalties

- A. If the person, or entity in receipt of a \$50.00 violation, does not pay the fine or request a hearing within ten (10) calendar days, the person or entity will be subject to a \$10.00 penalty. Any person or entity who does not pay the fine within twenty (20) calendar days will be subject to an additional \$20.00 penalty.
- B. If the person, or entity in receipt of a \$75.00 violation, does not pay the fine or request a hearing within ten (10) calendar days, the person or entity will be subject to a \$20.00 penalty. Any person or entity who does not pay the fine within twenty (20) calendar days will be subject to an additional \$40.00 penalty.
- C. If the person or entity in receipt of a \$100.00 does not pay the fine or request a hearing within (10) calendar days, the person or entity will be subject to a penalty of \$50.00. Any person or entity who does not pay the fine within twenty (20) calendar days, will be subject to an additional \$75.00 penalty.
- D. Failure of the person or entity to make payment within thirty (30) calendar days of a violation ticket in any amount, shall be issued a citation for failure to pay.

Section 12: Appeal

- A. A person in receipt of a violation letter may appeal to the Borough Council by filing an appeal request in writing, on a form to be provided, within five (5) calendar days of the date of the violation ticket, stating the reasons for appeal, and accompanied by the appropriate fine amount.
- B. If abatement or other costs were associated with the violation, these will be posted, along with the appeal.

- C. The appeal will be addressed by Borough Council at the next scheduled public meeting following the filing of the appeal. The violator may address the Borough Council at this public meeting prior to the Borough Council voting on the appeal. By majority vote of the Borough Council, the appeal may be upheld, denied, or the violation ticket and/or any associated costs, fines or penalty amounts modified. Borough Council will issue written notice of the decision, along with any refunds applicable.

Section 13: Citation Fines.

Any person, firm or corporation who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant hereto and authorized hereby, shall, upon conviction before the Magisterial District Judge, be ordered to pay a fine of \$500.00 on each offense

Section 14. Restitution.

The Magisterial District Judge may order the violator to make restitution where appropriate, to pay the Borough's costs of collection/citation proceedings, and to pay the Borough's reasonable attorney's fees associated with the prosecution of the same.

Section 15. Collections and Liens

At the discretion of the Borough, all tickets and costs of abatement for which payment is not received within forty-five (45) days of issuance may be turned over by the Borough to a collection's agency for receipt. The Borough may place liens on properties wherein a nuisance was removed and abated, pursuant to 53 P.S. §7101, et seq.

Section 16. Nonexclusive Remedies.

The penalty and collection provisions of this section shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Borough of Throop as may be deemed appropriate for carrying out the purposes of this Ordinance. The remedies and procedures provided in this Ordinance for violation hereof are not intended to supplant or replace to any degree, the remedies and procedures available to the Borough in the case of a violation of any Borough of Throop Ordinance, whether or not such other code or ordinance is referenced in this chapter and whether or not ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Ordinance.

Section 17. Severability.

The terms, provisions and applications of this Ordinance are severable. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, such holding shall not affect the remaining provisions of applications of this Ordinance. The remaining provisions and/or applications of this Ordinance shall remain in full force and effect without the invalid provision or application.

Section 18. Repealer.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 19. Effective Date.

This ordinance shall become effective immediately upon approval because it is an ordinance providing for the preservation of public peace, health, morals, and safety.

ORDAINED AND ENACTED into an Ordinance of the Borough of Throop this 27th day of April, 2020, by the Council for the Borough of Throop.

ATTEST:



By: _____
Renee O'Malley

BOROUGH OF THROOP

By: 
Richard Kucharski, Council President

By: 
Joe Tropiak, Mayor