

**BOROUGH OF THROOP
ORDINANCE NO. 6 OF 2021
BLIGHT ORDINANCE**

Purpose

The purpose of this ordinance is to promote the public safety, health, and welfare of the citizens of the Borough of Throop. All abandoned structures defined herein are hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the Borough of Throop. The International Property Maintenance Code (IPMC) will be the source guideline for implementation of this ordinance.

Definitions

The following words, terms, and phrases shall have the following meanings when used in this ordinance:

Abandoned Structure: For the purposes of this Ordinance, abandoned structures shall be defined in two (2) categories, one related to manufactured homes and the other related to all other building structures of this Ordinance.

Manufactured Home: A manufactured home shall be considered an abandoned structure if it is in a wrecked, scrapped, disassembled, unusable, cannibalized, burnt, or inoperable (not connected to an approved sewer system) condition and not occupied and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over twelve (12") inches in height;
3. The collection of pools or ponds of water;
4. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
5. A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
6. A source of danger from the home, or parts thereof, falling or turning over;
7. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
8. Accumulation of sewage or animal waste;
9. Concentrated quantities of hazardous materials;
10. The presence of dead animals; or
11. Any manufactured home specifically declared a public health and safety hazard by the Borough of Throop Zoning/ Code Enforcement Officer.

Manufactured homes that are abandoned as defined herein shall be considered personal property and, if previously characterized as real property for tax or other purposes, shall forfeit that characterization.

Building Structure: A building structure shall be considered an abandoned structure if it is unoccupied and damaged or in disrepair to the point of being condemnable as defined in the

most current edition of the International Building Code as related to being structurally unsound, unable to support the design loads as determined by the Zoning / Code Enforcement Officer or designated Building Official and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over twelve (12") inches in height;
3. The collection of pools or ponds of water;
4. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
5. A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
6. A source of danger from the building structure, or parts thereof, falling or turning over;
7. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
8. Accumulation of sewage or animal waste;
9. Concentrated quantities of hazardous materials;
10. The presence of dead animals; or
11. Any building structure specifically declared a public health and safety hazard by the Borough of Throop Zoning / Code Enforcement Officer.

Regulated Activities

Administration

A. The Borough of Throop, Borough of Throop Zoning/Code Enforcement Officer and Throop Police Department are responsible for the administration and enforcement of this ordinance.

B. The Borough of Throop, Borough of Throop Zoning/Code Enforcement Officer and Throop Police Department may secure, make safe, remove, store, and dispose of abandoned structures in compliance with this ordinance and applicable state laws.

C. Nothing in this ordinance shall be construed to limit the legal authority or powers of officers or the employees of the Borough of Throop in enforcing other laws or in otherwise carrying out their duties with regard to abandoned manufactured homes or building structures.

Notice, Hearing, Appeal, Lien on Property

A. Upon determining that a violation of this ordinance exists, the Borough of Throop shall issue a written notice, in accordance with Section "**Enforcement**" of this Ordinance, to:

- (1) the registered owner or person(s) entitled to possession of the abandoned structure;
- (2) the registered owner, lessee, or person(s) entitled to the land on which the abandoned structure is located; and
- (3) the occupant of the abandoned structure.

B. The notice shall be provided by hand delivery, service of process, or certified mail.

C. The notice shall:

- (1) identify the property and describe the abandoned structure located thereon to be removed, abated, or remedied;
- (2) direct that the abandoned structure be removed, abated, or remedied;
- (3) advise that the property must comply within thirty (30) days;
- (4) state that the municipality may enter the property to remove, abate, or remedy the abandoned structure if appropriate action is not taken during the time period provided;
- (5) state that the costs incurred by the municipality to remove, abate, or remedy the abandoned

structure, if not paid by the violator(s), shall be a lien upon the abandoned structure, the abandoned structure owner's real or personal property upon which it is located and shall be collectable as unpaid taxes; and

- (6) notify the violator(s) of a right to appeal the basis of the notice to the Borough of Throop, provided the appeal is made within twenty (20) calendar days of receipt of the notice.

D. If the name or whereabouts of the owner, tenant, possessor, or occupant cannot, after due diligence, be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Borough of Throop Council on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least ten (10) days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than (1) one week prior to the hearing.

E. The owner, tenant, possessor, occupant, or agent of the owner may appeal a notice (See Paragraph A & C above) to the Borough of Throop Zoning Hearing Board for decision. The owner or his/her agent may either rely on written materials submitted with their appeal or request a hearing before the Borough of Throop Zoning Hearing Board for a hearing at which he/she shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are:

- (1) whether the person is actually entitled to the notice; or
- (2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. In the case of, the fact that an owner did not bring the manufactured home to the property or does not have a possessory interest in the condition creating the abandoned structure is not a defense.
- (3) filing for an appeal process whether solely on written materials with appeal or request for a hearing is a nonrefundable fee of three hundred dollars (\$300.00)

F. The Borough of Throop Zoning Hearing Board shall within thirty (30) days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the violator(s) to remove, abate, or remedy the identified structure. The owner, tenant, possessor, or occupant may appeal decisions of the Borough of Throop Zoning Hearing Board to the Borough of Throop Council within fifteen (15) days of the decision.

G. If the property is not removed, abated or remedied within thirty (30) days of the initial notice and an appeal has not been filed; the Borough of Throop Zoning Code Enforcement Officer shall issue a second notice. The owner, tenant, possessor, occupant, or agent of the owner has no right to an appeal of the second notice. The notice shall:

- (1) identify the property and describe the abandoned structure located thereon to be removed, abated or remedied;
- (2) direct that the abandoned structure be removed, abated or remedied;
- (3) advise that the property must comply by a specific date, such date not to be less than ten (10) days nor more than thirty (30) days from date of the second notice;
- (4) state that the municipality may enter the property to remove, abate, or remedy the abandoned structure if appropriate action is not taken before the date provided;
- (5) state that the cost incurred by the municipality to remove, abate, or remedy the abandoned structure, if not paid by the violator(s) and any unpaid civil penalties, shall be a lien upon the

abandoned structure, the abandoned structure owners real or personal property upon which it is located and shall be collectable as unpaid taxes;

(6) advise that civil penalties, in accordance with Section “Penalties A”, are being assessed daily as of the date of the second notice; and

(7) advise that in addition to any and remedies above, the municipality may request criminal penalties in accordance with Section “Penalties C”.

H. If the property is not removed, abated or remedied before the date provided in the second notice, the Borough of Throop Zoning / Code Enforcement Officer shall present the case to the Borough of Throop Council with a recommendation of action based on severity, location and available resources. The Borough of Throop Council shall then direct the Borough of Throop Zoning Code Enforcement Officer of their desired action. The Borough of Throop Council shall consider the recommendation(s) of the Borough of Throop Zoning / Code Enforcement Officer, but is not obligated to adopt the Resolution.

I. Any person who removes an abandoned structure pursuant to this Ordinance shall not be held liable for damages for the removal of the abandoned structure to the owner, lien holder, or other person legally entitled to the possession of the abandoned structure removed; however, any person who intentionally or negligently inflicts injury upon any person or real property in the removal of such abandoned structure, may be held liable for damages.

Enforcement

A. Enforcement of this Ordinance shall rest with those governmental agencies and personnel authorized to exercise police powers to include the Borough of Throop Zoning / Code Enforcement Officer and Throop Police Department.

B. The provisions of this Ordinance shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this Ordinance have been violated based on the IPMC. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.

C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this Ordinance.

D. All citation forms shall be serially numbered and accounted for, and copies forwarded to Lackawanna County DCED.

Penalties

A. Civil penalty: The municipality may assess a civil penalty of five hundred dollars (\$ 500.00), which amount may be recovered by the county in a civil action in the nature of a debt.

Each day in which the violation occurs, or continues, shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.

B. Injunction and order of abatement: The provisions of this Ordinance may be enforced by

injunction and order of abatement.

C. Criminal penalties: In addition to other remedies cited in this Ordinance, any person violating the provisions of this Ordinance shall be guilty of a Class 3 Misdemeanor and shall be subject to fines. A fine of not more than one hundred dollars (\$100.00) dollars for the first offense, three hundred dollars (\$300.00) dollars for the second offense, and one thousand dollars (\$1,000.00) dollars for each subsequent offense, is hereby established. Each day in which the violation occurs or continues shall constitute a separate offense.

Ordinance Cumulative

Procedures set forth in this ordinance shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned structures.

Administration

Severability

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Conflict with Other Laws

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the most restrictive or that imposing higher standards shall govern.

Effective Date

This Ordinance shall take effect and be in force this the 30th day of August 2021.

APPROVED and ADOPTED this the 30th day of August 2021.

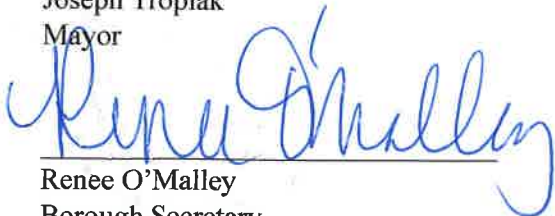
Borough of Throop Council



Richard Kucharski
Council President



Joseph Tropiak
Mayor



Renee O'Malley
Borough Secretary