

**THROOP BOROUGH
LACKAWANNA COUNTY**

ORDINANCE #3 OF 2022

AN ORDINANCE OF THE BOROUGH OF THROOP REGULATING NUISANCE AND ABANDONED VEHICLES WITHIN THE BOROUGH AND PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, nuisance or abandoned vehicles can constitute a public hazard and regulations to are deemed necessary for the preservation of public health, welfare and safety;

WHEREAS, Throop Borough is empowered by the laws of the United States and the Commonwealth of Pennsylvania to enact ordinances and regulations designed to secure and promote the health, safety and welfare of residents and to prohibit certain conditions, actions or activities that adversely affect the same; and therefore,

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Throop, and it is hereby Ordained and Enacted by the authority of the same.

I. Definitions.

The following words shall have the meaning ascribed to them in this section except where the context clearly indicates or requires a different meaning:

ABANDONED MOTOR VEIDCLE ON PRIVATE PROPERTY

As defined by§ 102 of the Pennsylvania Vehicle Code, a vehicle which has remained on private property without the consent of the owner or person in control of the property for more than 24 hours.

EMERGENCY

Any event or occasional combination of circumstances that calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition. Existing and continuing conditions are never considered emergencies.

ENFORCEMENT OFFICER

A police officer, code enforcement officer or other person or entity designated by the Borough of Throop to enforce its ordinances.

MOTOR VEHICLE

A car, truck, motorcycle, all-terrain vehicle or any other type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby, and any parts of a motor vehicle.

NUISANCE

Any condition or use of motor vehicle or property, structure or improvement which shall constitute a danger or potential danger to the health, safety, and welfare of the citizens of Throop Borough.

II. NUISANCE MOTOR VEHICLE ON PRIVATE PROPERTY

Any motor vehicle which falls under Subsection (A) or (B) hereof and set forth as follows:

A. Any motorized vehicle which is without current and valid:

- (1) License plate or plates; or
- (2) Registration; or
- (3) Inspection sticker, including emissions inspection, where applicable.

B. Any motorized vehicle which possesses one or more of the following conditions constituting a nuisance:

(1) Sharp edges on motor vehicle parts constituting a dangerous condition, including but not limited to the following:

- [a] Broken windshield, mirrors, headlamps, taillamps or other glass.
- [b] Broken body parts.
- [c] Open or severely damaged floorboards, including trunk and firewall.

(2) Protruding motor vehicle parts constituting a dangerous condition, including but not limited to the following:

- [a] Body parts, including glass, broken or otherwise, which protrude from the normal and customary place on a vehicle.
- [b] Doors, trunk, or hood which do not latch closed.

(3) Conditions which do or could permit harborage of vermin/animals, including but not limited to the following:

- [a] One or more flat or open tires or tubes.
- [b] Missing doors, windshield, windows, hood, or trunk.
- [c] Upholstery which is torn or open.

[d] Doors, trunk, or hood which do not latch closed.

[e] Open or severely damaged floorboards, including trunk and firewall.

(4) Conditions which result in the unsafe suspension of a motor vehicle, including but not limited to:

[a] Missing tires.

[b] Vehicle frame, broken or otherwise suspended from the ground in an unstable manner.

[c] Suspended or unstable supports.

(5) Fluids from the motor vehicle, including but not limited to the following:

[a] Leaking or damaged oil pan or gas tank which could cause a fire or explosion.

[b] Exposed battery containing acid.

(6) Disassembled motor vehicle parts, including but not limited to the following: chassis or other motor vehicle parts stored in a disorderly fashion in or about the vehicle.

(7) Such other conditions which constitute nuisances and threaten the health, safety, and welfare of the citizens of the Borough of Throop.

III. NUISANCE MOTOR VEHICLE ON PUBLIC PROPERTY

Any motor vehicle which falls under Subsection (A) or (B) hereof and set forth as follows:

A. Any motorized vehicle which is without current and valid:

(1) License plate or plates; or

(2) Registration; or

(3) Inspection sticker, including emissions inspection, where applicable.

B. Any motorized vehicle which possesses one or more of the following conditions constituting a nuisance:

(1) Sharp edges on motor vehicle parts constituting a dangerous condition, including but not limited to the following:

[a] Broken windshield, mirrors, headlamps, taillamps or other glass.

[b] Broken body parts.

[c] Open or severely damaged floorboards, including trunk and firewall.

(2) Protruding motor vehicle parts constituting a dangerous condition, including but not limited to the following:

[a] Body parts, including glass, broken or otherwise, which protrude from the normal and customary place on a vehicle.

[b] Doors, trunk, or hood which do not latch closed.

(3) Conditions which do or could permit harborage of vermin/animals, including but not limited to the following:

[a] One or more flat or open tires or tubes.

[b] Missing doors, windshield, windows, hood, or trunk.

[c] Upholstery which is torn or open.

[d] Doors, trunk, or hood which do not latch closed.

[e] Open or severely damaged floorboards, including trunk and firewall.

(4) Conditions which result in the unsafe suspension of a motor vehicle, including but not limited to:

[a] Missing tires.

[b] Vehicle frame, broken or otherwise suspended from the ground in an unstable manner.

[c] Suspended or unstable supports.

(5) Fluids from the motor vehicle, including but not limited to the following:

[a] Leaking or damaged oil pan or gas tank which could cause a fire or explosion.

[b] Exposed battery containing acid.

(6) Disassembled motor vehicle parts, including but not limited to the following: chassis or other motor vehicle parts stored in a disorderly fashion in or about the vehicle.

(7) Such other conditions which constitute nuisances and threaten the health, safety, and welfare of the citizens of the Borough of Throop.

PERSON

The owner of the abandoned motor vehicle; or the owner, tenant, occupant, lessee, resident, or custodian of the property on which abandoned motor vehicles are located, whether individual or partnership, association or corporation.

PRIVATE PROPERTY

Any real property located within the Borough of Throop, which a person owns, and which is not public property as defined in this section.

PUBLIC PROPERTY

Any street or highway, which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility.

B. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and neuter.

SECTION 1. Violations.

A. Persons shall be in violation of this ordinance for committing the following prohibited behavior:

(1) No person shall keep or leave a nuisance motor vehicle, as described in this ordinance, on public property in the Borough of Throop, except in cases of emergency. In emergencies, this period shall not exceed 72 hours.

(2) No person shall keep or leave, or permit to be kept or left, any abandoned motor vehicle or motor vehicle parts, as defined by this ordinance, within the Borough of Throop for more than 72 hours.

(3) No person shall keep or leave, or permit to be kept or left, any nuisance motor vehicle on private property, as defined by this ordinance, in the Borough of Throop.

B. Exceptions.

(1) This chapter shall not apply to:

[a] A vehicle in an enclosed building, excluding tarps or similar coverings and carport-type structures which are open to view and are unsecured.

[b] A vehicle on the premises of a business enterprise lawfully licensed requiring the keeping of abandoned vehicles, or parts thereof, as defined herein.

[c] A classic or antique vehicle which is in the process of being restored.

[d] A vehicle in an appropriate storage place, lawful depository, or impoundment facility.

C. Nothing herein shall be construed to permit the storage of abandoned motor vehicles contrary to the provisions of the Borough of Throop Code.

SECTION 2. Enforcement and Abatement; Penalties.

The Borough of Throop shall enforce or abate the nuisances, defined by this chapter, as follows:

A. **Inspections.** Enforcement officers of the Borough of Throop are hereby authorized and empowered to inspect private property on which motor vehicles are stored to determine if there is compliance with the provisions of this chapter. If a Throop Borough enforcement officer finds a violation or violations of this chapter, he shall issue a written notice upon the owner of the abandoned motor vehicle, or if unknown, the owner of the premises, lessee, agent of the owner, household or family member, and/or custodian of the property on which the abandoned motor vehicle is located, whether individual or partnership, association or corporation. If the whereabouts or identity of the above-defined persons is unknown or if they fail to respond to the written notice, service shall be by posting the notice conspicuously upon the premises where the motor vehicles are located.

(1) Said notice shall specify the violation complained of and shall require the person to remove or rectify the violation within 10 days of the mailing or posting of said notice.

(2) The authorized enforcement officer, whether the Throop Borough Police or the code enforcement officer, shall have the right and power to enter upon the premises where the abandoned motor vehicles are located to accomplish the service of notice and any other remedy under this chapter.

B. Impounding of Abandoned Motor Vehicles. If the person notified does not comply with the notice to abate, the Borough of Throop enforcement officer is hereby authorized to remove or have removed any abandoned motor vehicle which reasonably appears to be in violation of this chapter, within the boundaries of the Borough of Throop, at the initial expense of the Borough. Such abandoned motor vehicle shall be impounded at the closest junk automotive dealership or yard until lawfully claimed or disposed of according to law. The Borough of Throop shall then assess the person notified with the cost of such towing and impoundment, plus 10% of all costs.

C. Enforcement of Nuisance Motor Vehicles and Abandoned Motor Vehicles. An action shall be brought against any person in violation of this ordinance by filing a citation with the Magisterial District Justice for a summary offense under the Pennsylvania Rules of Criminal Procedure. Any person who shall be convicted of violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, in a summary proceeding, be sentenced to pay a fine of not more than \$300 plus costs of prosecution, removal of the vehicle, restitution for the costs of removal of the vehicle(s) and/or a term of imprisonment of up to 90 days, per violation. Each day that a violation continues after conviction shall constitute a separate offense.

(1) Civil action for unpaid fines, penalties and costs and other relief. The Borough of Throop may file a civil enforcement proceeding with the same Magisterial District Justice to recover the unpaid fines, penalties, costs, restitution and expenses accruing for each day the violation continues when they are not voluntarily paid. Penalties shall not exceed \$1,000 per violation. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Criminal Procedures. In any civil action, the Borough of Throop shall be exempt from the payment of costs of any civil case brought to enforce this chapter and in accordance with 53 P.S. § 66601 (c.1)(1).

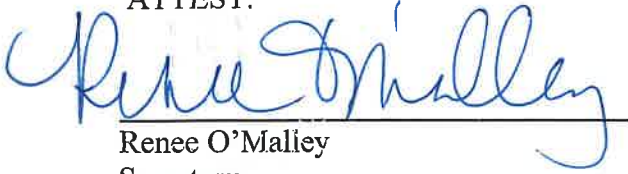
(2) Remedies not exclusive. The remedies provided herein for the enforcement of this chapter, or any remedy provided by law, shall not be deemed mutually exclusive; rather, they may be employed simultaneously or consecutively, at the option of the Borough of Throop.

Section 3. Repealer.

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.

I HEREBY CERTIFY that; this Ordinance was adopted by the Council of Throop Borough at the regular scheduled meeting on the 30th of August 2022.

ATTEST:



Renee O'Malley
Secretary

THROOP BOROUGH



Richard Kucharski
Council President



Joe Tropiak
Mayor