

ORDINANCE No. 1983-1

AN ORDINANCE DEFINING AND PROHIBITING PUBLIC NUISANCES, PROVIDING FOR TERMINATION, REMOVING AND ABATING THE SAME AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

IT IS HEREBY ORDAINED AND ENACTED by the Borough of Lilly, Cambria County, Pennsylvania, as follows:

SECTION 1. This ordinance shall be known as the "Lilly Borough Public Nuisance Ordinance".

SECTION 2. This it shall be unlawful for any person to maintain, carry on, cause or allow the existence or maintenance of a public nuisance within the limits of the Borough of Lilly, Cambria County, Pennsylvania.

SECTION 3. Public Nuisance shall be defined as including, but not limited to, the following activities when they adversely affect the health, safety, morals or general welfare of the Borough:

a. the accumulation of or permitting the accumulation of trash, garbage, refuse or rubbish on private or public grounds.

b. the term "junked automobile" shall mean any motor vehicle from which component parts have been or are being removed for sale or being used by some person other than the owner thereto, or for use upon another vehicle in possession of the owner thereof, or a vehicle which has been so damaged in a collision as to

be inoperable in accordance with the laws of this Commonwealth or any automobile or motor vehicle not in full or complete working order and without current registration plate or State Inspection Sticker, or stripped or abandoned vehicles or any or all of the above, providing that such vehicle and/or surrounding private or public property provide a breeding area for rodents and/or constitutes an attractive nuisance to children.

c. the term "abandoned automobile" shall mean any motor vehicle to which the rightful owner thereof shall have, to all outward appearances, relinquished all his right and claim to possession with the intention of terminating his ownership but without vesting possession or ownership in any other person.

d. the carrying on of any offensive manufacture or business, or any other use or activity upon property that by reason of noxious odors or fumes, excessive illumination, excessive noise, vibration or dust or air pollution unreasonably interferes with the reasonable use, comfort and enjoyment of property in the vicinity, or endangers the health or safety of the occupants of property in the vicinity.

e. the maintenance or existence of any dangerous structure or improvement or of any other condition on public or private grounds or property, which constitutes a fire hazard or endangers surrounding buildings or results in the sheltering of

rats or other vermin, or constitutes an attraction to children, and a hazard to their safety, or which is unsafe for human occupancy or use, or otherwise endangers the health or safety of occupants of property in the vicinity.

f. the burning of any paper, rags, automobiles, machines, or other waste materials on private or public grounds which results in the emission of excessive noxious odors, or which causes fire hazards, or which pollutes the air.

g. the storage of gasoline, kerosene or other petroleum products above ground or underground, without complying with the regulations thereto adopted by the Pennsylvania State Police.

h. the maintenance or existence of any unfenced or inadequately fenced excavation which constitutes a hazard to children or other persons in the vicinity.

i. the use of private property in such manner as to unreasonably interfere with the reasonable enjoyment of property by occupants of property in the vicinity by creating unsightly conditions and appearances on the said premises.

SECTION 4. In the event that any person shall maintain a nuisance as heretofore defined, the Council of the Borough of Lilly, upon determining that such nuisance exists or is being maintained, at its option may proceed singly or severally as follows:

a. commence a summary proceeding to collect the penalty as provided under Section 5 for violation of this ordinance.

b. order the termination of the nuisance or the removal or abatement of the dangerous structure, improvement or excavation by causing written notice to be served personally or by registered or certified mail upon the owner or any occupant of said premises, or upon any agent of the owner or, if the identity or whereabouts of the owner be unknown and there is no occupant, by posting the notice conspicuously upon the offending premises. The notice shall specify the condition complained of and shall require the owner to commence corrective action as therein set forth within ten days and to complete such corrective action fully within a reasonable time thereafter. If appropriate, Borough Council may require the corrective action to be fully completed within the ten day notice period.

c. should any person cause or permit the continuation of a public nuisance without the commencement of corrective action within ten (10) days from the date of the receipt of the notice specified in b hereof, or if such person shall fail to proceed to complete the corrective action within the time specified in the notice, the Borough Council may cause the removal, correction or abatement of the public nuisance by such means as shall appear necessary, have the right and power to enter into the offending premises to accomplish the foregoing.

d. in the event the owner or occupant shall fail to remove, correct or abate any nuisance under the term of this ordinance and the Borough shall have expended money to remove, correct and abate the same, the Borough may recover the costs thereof from the owner or occupant of such ground or property together with the penalty of fifteen per cent (15%) of such costs in the manner provided by law for the collection of municipal claims or by action of Assumpsit.

e. in lieu of removal, correction or abatement of any nuisance by the Borough, the Borough may, whenever the Borough Council deems it appropriate, institute proceedings in the Courts of Equity to compel the removal, correction or abatement of such condition and to seek such other reliefs as the said Court is empowered to afford.

SECTION 5. Any person who shall violate any of the provisions of this ordinance shall, upon conviction by summary proceedings be subject to a fine or penalty of not more than One Hundred Dollars (\$100.00) plus the costs of prosecution, and in default of payment thereof, to imprisonment for not more than thirty (30) days in jail. Each day's continuance of a violation shall constitute a separate offense.

SECTION 6. The remedies herein provided for the enforcement of the provisions of this ordinance, or of any remedy afforded by law shall not be deemed mutually exclusive and may be employed simultaneously or consecutively, at the discretion of the

Borough of Lilly.

SECTION 7. If any section or part of any section, sentence, clause or phrase, of this ordinance shall be construed to be unconstitutional or invalid by a Court of competent jurisdiction, the same shall not affect the validity of all other sections, sentences, clauses and phrases hereof, which shall remain in full force and effect.

SECTION 8. All ordinances or parts of ordinances or resolutions or parts of resolutions inconsistent herewith are hereby repealed.

ORDAINED AND ENACTED at a regular meeting held on the 4th day of October, 1983.

BOROUGH OF LILLY

By

Hugh B. Conroy

President of Council

ATTEST:

Helen P. Barlik
Secretary

APPROVED this 4 day of October, 1983.

Joseph Pramuk
Mayor