

ORDINANCE NUMBER 2008-04

AN AMENDMENT TO ORDINANCE NO. 2003-02 AND 2006-02 TO BE KNOWN AS THE “NUISANCE ORDINANCE OF THE CITY OF PARKER, ARMSTRONG COUNTY, PENNSYLVANIA”, PROHIBITING NUISANCES: BEING THE ACCUMULATION OF GARBAGE AND RUBBISH; DANGEROUS STRUCTURES; GRASS OR WEEDS OR ANY VEGETATION WHATSOEVER NOT EDIBLE OR ORNAMENTAL WHICH IS NOXIOUS; THE EXISTENCE OF OPEN WELLS; AND UNSIGHTLY JUNK ON PUBLIC AND PRIVATE PROPERTY WITHIN SAID CITY AND PROVIDING FOR THE HEALTH, COMFORT AND SAFETY OF THE CITIZENS OF SAID CITY AND FOR THE REMOVAL, CORRECTION AND/OR ABATEMENT OF SAID NUISANCES AND FIXING PENALTIES FOR VIOLATIONS OF SAID ORDINANCE.

WHEREAS, the City Council deems it to be in the best interest and general welfare of the citizens and the residents of this City to prohibit the unreasonable, unwarrantable, and/or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance, or discomfort to others in the legitimate enjoyment of their rights of person or property; and

WHEREAS, the Third Class City Code, Act of June 23, 1931, (P.L. 932, No. 317, et seq., 53 P.S. §35101, et seq., as amended), authorizes the City to prohibit nuisances.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the City Council of the City of Parker, as follows:

SECTION 1. DEFINITIONS. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

- (A) “City” is the City of Parker, Armstrong County, Pennsylvania.
- (B) “Council” is the elected members of the City Council of the City of Parker, Armstrong County, Pennsylvania.
- (C) “Owner” is any or either person, firm, partnership, association, corporation, company or organization of any kind having charge of any premises within the City.

- (D) “Person” is any natural person, firm, partnership, association, corporation, company or organization of any kind.
- (E) “Nuisance” is the unreasonable, unwarrantable or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person in the legitimate exercise of his reasonable rights of person or property.
- (F) “Abandoned vehicle” is any vehicle (other than a peddle cycle) that is inoperable and is left unattended on public property, or that has remained illegally on public property for a period of time, or without a valid registration plate or certificate of inspection or title left unattended on or along a highway, or that has remained on private property with or without the consent of the owner or person in control of the property. Vehicles and equipment used or to be used in construction or in the operation or maintenance of public utility facilities, which are left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be abandoned.
- (G) “Motor Vehicle” is any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to: automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the road vehicles.
- (H) “Motor Vehicle Accessories” is any part or parts of any motor vehicle.
- (I) “Junk” is any material, including vehicles, machinery and equipment, which is valueless except for scrap and salvage.

SECTION 2. NUISANCES DECLARED ILLEGAL. Nuisances, including but not limited to the following, are hereby declared to be illegal:

- (A) Storage or accumulation of garbage or rubbish, junk, abandoned vehicles or discarded properties of any nature, including but not limited to refrigerators, electric or gas ranges, worn out tires, plumbing or electrical fixtures, building supplies, tree limbs, grass or other vegetation, in or on any public or private property, vacant or occupied, within the City, or to maintain any accumulations of such materials in or on any public or private property, vacant or occupied, within said City that creates a condition that endangers the safety, health or comfort of the citizens and the residents of the City.
- (B) To permit drainage or flowing by pipe or other channels, whether natural or artificial, any foul or offensive waste or drainage from sinks, bathtubs, wash stands, lavatories, water closets, swimming pools, privies or cesspools of any kind or nature whatsoever

or any other foul or offensive water or foul or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley in the City into or upon any said highway, road, street, avenue, lane or alley; or from any property into or upon any adjoining property.

- (C) Carrying on or maintaining any offensive manufacturing or business activity anywhere within the City that creates a condition which endangers the safety, health or comfort of the citizens of the City.
- (D) Burning garbage, tires or tar products within the City.
- (E) Refusing to cut or failing to cut any grass, weeds or other 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 or six (6) inches; or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit.
- (F) To allow or permit any excavation, material which has been excavated, or obstruction on or adjoining any highway, street, road or sidewalk to remain opened or exposed without the same being secured by a barricade, temporary fence or other protective materials in said City.
- (G) To allow or permit the existence of any well or other deep or dangerous hole upon any premises within the City of Parker without having carefully plugged or covered the same.
- (H) To dump or otherwise dispose of any garbage, rubbish or other refuse materials on any public or private property vacant or occupied within said City.
- (I) To refuse or fail to comply with all the provisions of the “Dog Law”, Act of 1982, Dec. 7, P.L. 784, No. 225, Sections 101, et seq. (3 P.S. §459-101, et seq.) and in addition, the owner or keeper of every dog shall at all times keep such dog either confined or within an enclosure from which it cannot escape, or, firmly secured by means of a collar and chain or other devise so that it cannot stray beyond the premises on which secured, and, under control to such extent that such dog or dogs shall not bark for an unreasonably long or loud manner so as to disturb other residents of said City.
- (I) Maintaining, causing to be maintained, erecting, using, occupying or owning any unsafe or dangerous structure(s) pursuant to The Third Class City Code, Article XLI, Section 4140.
- _____(J) To own or have custody of any junked motor vehicle or motor vehicle accessories which create a hazard or threat or potential threat to the health, safety or welfare of the

City's citizens to store or permit any such vehicle or accessories to remain in unsheltered storage on any private property or public street or highway within the City for a period of more than thirty (30) days. It shall further be unlawful for any person, after notification, to move any junked motor vehicle, or motor vehicle accessories constituting a public nuisance hereunder, to any other private property upon which storage is not permitted, or onto any public highway or other public property for purposes of storage.

SECTION 3. PERMITTED STORAGE.

The prohibitions of Section 2 (J) hereof shall not apply to a limit of one (1) junked motor vehicle or motor vehicle accessories stored within an enclosed building or in an area completely surrounded by a solid fence of a height of not less than the height of the motor vehicle or motor vehicle accessories being stored, or underneath a custom fit car cover, and the prohibitions of Section 2(J) hereof shall not apply to the premises of a business enterprise otherwise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or a seasonal use vehicle such as snowmobiles, motorcycles, motor scooters and non-motorized campers. Such business enterprises shall include auto repair and auto body shops, but shall not include tire, battery and accessory sales stores, and the provisions hereof extending to permitted storage shall not exceed to the storage at such business enterprises of more than five (5) junked vehicles or trailers at any one time.

The prohibitions of Section 2 (J) hereof shall likewise not be applicable to a salvage yard operator holding a current certificate of authorization issued by the Department of Transportation of the Commonwealth of Pennsylvania, provided however, that such salvage yard operator is otherwise operating in a lawful place and manner.

SECTION 4. INVESTIGATION OF THE PREMISES.

The mayor, building inspector, code enforcement officer and/or police officer on routine inspection upon receipt of a complaint, may enter upon private property to investigate a suspected junked motor vehicle or motor vehicle accessories stored and maintained in violation of this Ordinance and record the make, model, style and identification numbers and its situation and condition.

SECTION 5. WRITTEN NOTICE TO VIOLATORS REQUIRED.

Whenever a condition constituting a nuisance is permitted or maintained or in existence and a written, signed and dated complaint concerning said condition has been received by the City from a City resident or property owner, or observed by the mayor, building inspector, code enforcement officer and/or police, the City shall cause written notice to be served upon the owner in one of the following ways:

- (A) By making personal delivery of the notice to the owner.
- (B) By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides; but if no adult member of the family is found, than to an adult person in charge of such residence.
- (C) By fixing a copy of the notice to the door at the entrance of the premises in violation or by posting the premises in violation with a copy of the notice if there are no buildings thereon.
- (D) By mailing a copy of the notice to the last known address of the owner by certified mail.
- (E) By publishing a copy of the notice in a local newspaper once a week for three (3) successive weeks.

Such notice shall set forth:

- (1) Nature of Complaint;
- (2) Description and location of the violation;
- (3) Statement that the violation shall be remedied or removed from the premises no later than fourteen (14) days from the date of notification or within seventy-two (72) hours for subsequent violations during the same calendar year. Owner shall comply fully with the terms and reasonable dispatch, all material and work to be done and supplied at the owner's sole expense; ;
- (4) Statement that removal from the location specified in the notification to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties; and
- (5) Statement that if remedy or removal is made within the time limits specified, notification thereof shall be given in writing to the mayor, building inspector, code enforcement officer and/or police officer.
- (6) Statement of the penalties provided for noncompliance with such notice.

PROVIDED, HOWEVER, that if the circumstances require immediate corrective measures, such notice shall require the owner to comply immediately with the terms thereof.

SECTION 6. PENALTY FOR VIOLATION. If the owner after receiving due notice refuses or fails to comply with the terms thereof:

- (A) He shall be guilty of a violation of this ordinance and shall upon being found liable therefore, pay a fine of not more than three hundred and no/100 (\$300.00) Dollars for the first violation and One Thousand and no/100 (\$1,000.00) Dollars for each subsequent violation by the same person who violates this ordinance or permits a

violation hereof, and/or to be committed to the county jail for a period no exceeding ninety (90) days, costs of prosecution, all court costs and reasonable attorney's fees, and providing that each day's continuance of a violation hereof shall constitute a separate and subsequent offence.

- (B) The City may direct the removal, repairs or alterations, as the case may be, to be done by the City and the cost thereof with a penalty of ten (10%) percent may be collected from the owner of the premises by a civil action or the City may file a municipal claim or lien therefore against such real estate. [53 P.S. §37403 (16), as amended].
- (C) The City may by means of an action in assumpsit to compel the owner to remedy the nuisance or to seek other relief as such Court is empowered to afford.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective five (5) days after the adoption hereof.

ENACTED AND ORDAINED this 11th. day of August, 2008, in lawful session duly assembled.

CITY OF PARKER,
ARMSTRONG COUNTY, PENNSYLVANIA:

By: *William R. McGill, Jr.*

Mayor

ATTEST:

Carol Bausser
Secretary