

**NUISANCE ORDINANCE
NO. 2019-002
BOROUGH OF UNION DALE
SUSQUEHANNA COUNTY**

AN ORDINANCE OF THE BOROUGH OF UNION DALE, SUSQUEHANNA COUNTY, COMMONWEALTH OF PENNSYLVANIA, DEFINING NUISANCES ON PUBLIC AND PRIVATE PROPERTY WITHIN THE BOROUGH AND SPECIFICALLY INCORPORATING THE STORAGE OF MORE THAN TWO (2) INOPERABLE MOTOR VEHICLES AS A NUISANCE, PROVIDING FOR THE REMOVAL AND/OR ABATEMENT OF NUISANCES, PROVIDING PENALTIES FOR VIOLATION, AND REVOKING EXISTING NUISANCE ORDINANCE NO. 2001 – 2 PERTAINING TO INOPERABLE MOTOR VEHICLES, ORDINANCE NO. 2018 – 002 PERTAINING TO NUISANCES, AND ALL OTHER ORDINANCES INCONSISTENT HEREWITH.

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

WHEREAS, the Borough of the Council of Union Dale has previously enacted a Nuisance Ordinance and an Inoperable Motor Vehicle Nuisance Ordinance with different procedural requirements and enforcement mechanisms; and

WHEREAS, the Borough of the Council of Union Dale intends to incorporate the two (2) Ordinances into one (1) Nuisance Ordinance for the ease and benefit of the residents of the Borough of Union Dale, together with the ease and benefit of the Council and employees of the Borough of Union Dale; and

WHEREAS, the Pennsylvania Borough Code (8 Pa C.S.A. § 1202) authorizes the Borough Council to prohibit and remove nuisances, and impose penalties therefore; and

WHEREAS, this Ordinance shall be known and may be cited as the **Nuisance Ordinance**.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Borough Council of the Borough of Union Dale as follows:

Section 1. DEFINITIONS

1. The word “**Commercial Garage**”, as used within this Ordinance, shall mean a business licensed to conduct inspections of automobiles as per the requirements of the statutes of the Commonwealth of Pennsylvania within the Borough of Union Dale, and/or collecting sales tax in regards to the performance of mechanical work within the Borough of Union

Dale, and/or a commercially insured premises involved in mechanical work in the Borough of Union Dale.

2. The word **"Inoperable Motor Vehicle"**, as used within this Ordinance, shall include any Motor Vehicle which is not registered, unlicensed, or unable to move under its own power.
3. The word **"Motor Vehicle"**, as used in this Ordinance, shall mean any 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 semi-trailers pulled thereby. This definition does not include farm equipment.
4. The word **"Officer"**, as used in this Ordinance shall include the Mayor of the Borough of Union Dale, any Code Enforcement Officer, Borough Police Officer, Fire Marshall, Health Officer, and/or other Building Inspector or Investigating Office of the Borough of Union Dale and any such Officer shall have authority to act under this Ordinance.
5. The word **"Owner"** as used in this Ordinance is any person owning, leasing, occupying, or having charge of any premises or vehicle within the Borough of Union Dale.
6. The word **"Person"** as used in this Ordinance, shall mean and include any natural person, partnership, association, firm, or corporation.
7. In this ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neutral.

Section 2. UNLAWFUL NUISANCE

It shall be considered a nuisance and shall be unlawful for any person to use property, permit to continue to exist, and/or create, continue, cause, or maintain, any condition upon property within the Borough that, other than infrequently, causes or results in:

- a. annoyance or discomfort to persons beyond the boundaries of that property;
- b. interference with the health and/or safety of persons beyond the boundaries of that property or of persons who might reasonably be expected to enter upon or be in that property; and/or
- c. disturbances to or interference with the peaceful use of the property of others within the borough, in any case taking into consideration the location of the use or condition and the nature and condition of the surrounding neighborhood.
- d. Specifically, the word "nuisance" shall include but shall not be limited to the following:
 - i. Loud playing of radios, television sets, amplifiers, machinery, appliances, and other sound devices so as to be heard beyond the premises from which

the same shall emanate between the hours of 11 pm and 7 am without the prior written approval of the Bough of Union Dale. The aforesaid written approval shall be granted upon reasonable request by the Mayor of the Borough of Union, or if the Mayor is not available, by the Council of the Borough of Union Dale.

- ii. Keeping or harboring any dog or other animal or fowl which, by frequent howling or barking or other noise or odor shall annoy or disturb the neighborhood or a number of persons.
- iii. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures, or premises:
 - 1. Open wells or cisterns;
 - 2. Open excavations;
 - 3. Unfinished buildings, foundations, or other structures;
 - 4. Buildings or structures damaged or partially destroyed or in a state of disrepair or danger; or
 - 5. Dangerous placement or storage of vehicles, materials, or equipment.
- iv. Carrying on construction work in such a manner that dirt is carried by wind onto adjacent properties or that mud, rock, stone, and other debris is tracked or drained into streets adjacent to the project.
- v. Using any property or operating any business or other activity so as to permit or cause smoke, soot, cinders, fly ash, dust, mud, dirt, acid, noxious or offensive fumes, gases or odors to be discharged into the air, or to be carried off the premises or to cause any water to become polluted by sewage, industrial wastes, acid or other substance, or to cause a glare from lights, or noise of such character as to cause annoyance to residents or interference with the normal use of adjacent properties. Burning of household waste is permitted with the exceptions of those items specified by Pennsylvania Department of Environmental Protection, including, but not necessarily limited to, appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste solvents, tires, and/or treated wood.
- vi. Creating or maintaining "attractive nuisances," which is the leaving of a dangerous instrumentality which by its character is dangerous and attractive to children.

- vii. Storage of more than two (2) Inoperable Motor Vehicles upon open private grounds.
- viii. Storage of any motor vehicle in a state of major disarray, disrepair, in the process of being stripped or dismantled, and/or existing with defects which could threaten the health, safety, and welfare of the citizens of the Borough of Union Dale.

Section 3. INVESTIGATION

Any Officer, on routine inspection or upon receipt of a written complaint from a citizen of the Borough of Union Dale, may investigate a suspected nuisance in violation of this Ordinance and photograph and/or otherwise note the nuisance. The Officer shall only enter upon private property to make necessary investigations if (1) permission is granted by the property owner and/or occupant of the property; (2) an administrative warrant is obtained for the purpose of determining if a specific violation of the Ordinance has occurred; and/or (3) exigent circumstances exist. No Officer shall be required to act on an anonymous complaint.

Section 4. WRITTEN NOTICE

1. Whenever any Officer finds or is notified of the existence of a nuisance on any public or private property within the Borough and in violation of the provision of this Ordinance, the Officer 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 fixing a copy of the notice to the door at the entrance of the premises in violation; or
 - c. By mailing a copy of the notice to the last known address of the owner by certified mail.
2. The Notice shall contain the following information:
 - a. A concise factual description of the alleged nuisance and/or dangerous structure;
 - b. Notice that the alleged nuisance and/or dangerous structure must be removed and/or repaired within thirty (30) days of service of the Notice, pursuant to paragraph 4(1) above;
 - c. A statement that if the nuisance is and/or dangerous structure is not removed and/or repaired within the time limits specified, notification thereof shall be given to the Borough Council;
 - d. A statement of the penalties provided for noncompliance with such notice; and

- e. For nuisances involving inoperable motor vehicles, information regarding the Owner's right to comply with Section 6 of this Ordinance.

Section 5. PENALTIES

If the owner after receiving due notice refuses to comply with the terms thereof:

1. The owner shall be guilty of a violation of this Ordinance and shall, upon conviction thereof, pay a fine of not more than Three Hundred Dollars (\$300.00) and the costs of prosecution, shall be imprisoned for not more than ten (10) days, provided, each day's continuance of a violation shall constitute a separate offense.
2. The Borough Council of the Borough of Union Dale may direct the removal, repair, or alterations, as the case may be, to be done by the Borough, and/or any agent thereof, and the cost thereof with a penalty of ten percent (10%) may be collected from the owner of the premises by an action of assumpsit or may file a municipal claim or lien therefore against such real estate. This cost may be in addition to any penalty imposed pursuant to Section 5(a) of this Ordinance.
3. The Borough Council of the Borough of Union Dale by means of a complaint in equity may compel the owner to do so or seek such other relief as such court is empowered to afford.

Section 6. STORAGE OF MORE THAN TWO (2) INOPERABLE MOTOR VEHICLES

It shall not be an unlawful nuisance, as set forth in Section 2(d)(vii), *supra*, for an Owner to store more than two (2) Inoperable Motor Vehicles if the following conditions are met:

1. The inoperable motor vehicles are kept free of vermin infestation; and
2. The inoperable motor vehicles are stored:
 - a. Within a garage or other enclosed building; or
 - b. Outside within an opaque fence at least six (6) feet in height which is locked at all times when unattended, provided however that if the six (6) foot fence is not high enough to prevent viewing of the inoperable motor vehicles from any public roadway, the Officer may recommend to the Council of the Borough of Union Dale and the Council of the Borough of Union Dale may thereafter require a fence of greater height; or
 - c. Outside in an area enclosed by a chain link fence, at least six (6) feet in height, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended.

Section 7. MISCELLANEOUS

1. This ordinance shall not be construed to be the sole means for abatement of nuisances within the borough, and nothing shall preclude any person from proceeding individually or with other injured persons, to affect the abatement of a private nuisance. Furthermore, in the exercise of the powers conferred in this ordinance, the borough may institute proceedings in equity.
2. 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.

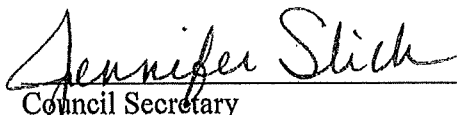
The existing Nuisance Ordinance No. 2018-002 and Ordinance No. 2001 – 2, together with all ordinances and parts of ordinances inconsistent with the terms of this ordinance, are hereby repealed.

Section 8. EFFECTIVE DATE

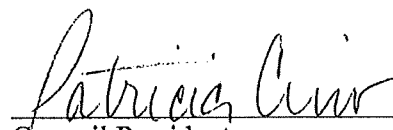
This ordinance shall be in full force and effect from and after its passage and publication as required by law.

ENACTED AND ORDAINED this 24th day of March 2019
by the Council of the Borough of Union Dale, Susquehanna County, Commonwealth of Pennsylvania in lawful session, duly assembled.

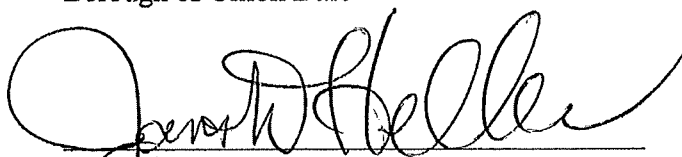
ATTEST:



Council Secretary
Borough of Union Dale



Council President
Borough of Union Dale



Honorable Mayor
Borough of Union Dale