

Junk Vehicles

AVOCA BOROUGH

ORDINANCE NO. 3 OF 2001

AN ORDINANCE PROHIBITING NUISANCES, STORING OR ACCUMULATING ABANDONED OR JUNKED MOTOR VEHICLES, OR JUNK MATERIAL ON PRIVATE OR PUBLIC PROPERTY WITHIN THE BOROUGH; PROVIDING FOR THE REMOVAL THEREOF ON PUBLIC OR PRIVATE GROUNDS AFTER NOTICE TO THE OWNERS TO DO SO, AND IN DEFAULT THEREOF, TO COLLECT THE COSTS OF SUCH REMOVAL BY THE BOROUGH; AND PRESCRIBING PENALTIES FOR VIOLATION.

Enacted On:

Effective On:

WHEREAS, the Council of the Borough of Avoca, County of Luzerne and Commonwealth of Pennsylvania deems it to be in the best interests and general welfare of the citizens and the residents of the Borough 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 or property; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Borough of Avoca, and it is hereby enacted and ordained by and with the authority of same, as follows:

Section 1. DEFINITION: For the purpose 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.

1. "Borough" is the Borough of Avoca, which is located within the confines of Luzerne County, Pennsylvania.

2. "Council" is the Council of the Borough of Avoca, County of Luzerne, Pennsylvania.

3. "Owner" is a person owning, leasing, occupying or having charge of any premises within the Borough.

4. "Person" is any natural persons, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

5. "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 or resident in the legitimate enjoyment of reasonable rights as a person or in property.

6. "Abandoned or Junked Motor Vehicles" is any vehicle in non-serviceable condition or without having both a current inspection sticker and current registration plate.

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

A. Storing or Accumulating the following:

1. All animal and vegetable waste resulting from preparation, cooking or consumption of foods, glass, metal, paper, plastic, plant growth or other solid waste.

2. Junk material including scrap iron, scrap tin, scrap brass, scrap cooper, scrap lead or scrap zinc and all other scrap metals and their alloys, bones, rags, paper, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used plumbing, heating and other fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to be dismantled.

B. Storing or accumulating abandoned or junked motor vehicles, that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Borough, or by the County of Luzerne, or by the Commonwealth of Pennsylvania. All such vehicles must be moved in fifteen (15) days from the date the vehicle was placed on the premises.

C. Storing or accumulating more than two (2) antique vehicles for restoration, which are neither sheltered by a building or solid fence as permitted by applicable zoning ordinances; or storing or accumulating in an unordered fashion two (2) or less antique or collector motor vehicles for registration.

D. Permitting or allowing any well or cistern to be, or remain, uncovered.

E. Allowing or permitting any excavation, material excavated or obstruction on or adjoining any public highway, street, or road, to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.

F. Construction, sites; clean conditions. Property owners and prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried by the elements to adjoining premises. All litter from construction activities or any related activities shall be picked up at the end of each workday and placed in containers which will prevent litter from being carried by the elements to adjoining premises.

G. Pushing, shoveling or otherwise depositing snow upon the cartway or traveled portion of any public highway, road or street which is maintained by the Borough, or by the County of Luzerne, or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.

Section 3. WRITTEN NOTICE TO VIOLATORS REQUIRED: Whenever a condition constituting a nuisance is permitted or maintained, the Borough Council shall cause written notice to be served upon the owner or owners thereof in any one of the following manners:

1. By making personal delivery of the notice to the owner;
2. By handing a copy of the notice at the residence of the owner or owners to the adult member of the family with whom he, she or they reside; but if no adult member of the family is found, then to an adult person in charge of such residence;
3. By fixing a copy of the notice to the door at the entrance of the premises in violation;
4. By mailing a copy of the notice to the last known address of the owner or owners by Certified Mail.

Section 4. PENALTY FOR VIOLATION: If the owner or owners, after receiving due notice from the Borough Council, refuse to comply or otherwise do not comply with the terms thereof, the violator(s) shall be subject to the following:

1. Institution of criminal proceedings in a court of competent jurisdiction. Any person or persons violating the terms and conditions of this Ordinance and notice issued pursuant thereto shall be guilty of a summary offense, shall upon conviction thereof pay a fine of not more than THREE HUNDRED (\$300.00) DOLLARS together with the costs of prosecution, and/or undergo imprisonment of not more than thirty (30) days, provided, further, that each day's continuance of a violation shall constitute a separate offense.

2. Institution of civil proceedings for monetary damages. The Borough Council may direct the removal, repairs and/or alterations, as the case may be, of the nuisance by Borough employees or other authorized representatives. The costs incurred to remove, repair or alter a nuisance shall be certified to the Borough Solicitor who shall then begin civil proceedings to recover the costs of such removal, repairs or alterations. A Judgment Lien shall thereafter be

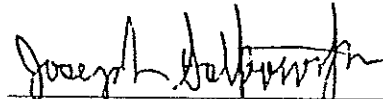
filed against the premises on which the nuisance was present and/or against the owner or owners thereof.

3. Institution of a Complaint in Equity. The Borough, by means of a Complaint in Equity, may compel the owner of the premises to comply with the terms of any notice of violation, or seek any such other relief as any such court of competent jurisdiction is empowered to afford pursuant to the laws of the Commonwealth of Pennsylvania.

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

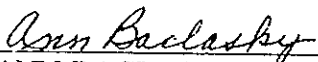
Section 6. EFFECTIVE DATE: This Ordinance shall become effective thirty (30) days after the adoption hereof.

ORDAINED BY THE BOROUGH COUNCIL OF AVOCA BOROUGH this 11th
day of APRIL, 2001.



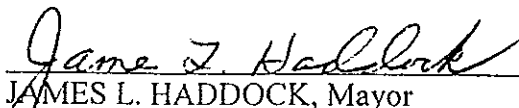
JOSEPH SATKOWSKI
President of Council

ATTEST:


ANN BACLASKY, Secretary

(SEAL)

THE FOREGOING ORDINANCE is hereby approved by the Mayor of the Borough of
Avoca, this 11th day of APRIL, 2001.


JAMES L. HADDOCK, Mayor