

ORDINANCE NO. 228

AN ORDINANCE OF THE BOROUGH OF CLYMER, COUNTY OF INDIANA AND COMMONWEALTH OF PENNSYLVANIA, DEFINING NUISANCES, PROHIBITING THE CREATION OR MAINTENANCE OF NUISANCES, PROVIDING FOR THE REMOVAL OR ABATEMENT OF NUISANCES, AND PRESCRIBING PENALTIES FOR VIOLATION.

The Borough Council of the Borough of Clymer ordains as follows:

Section 1. Definitions and Interpretation.

A. The word "nuisance", as used in the Ordinance, shall mean any use or property within the Borough, or any condition upon property within the Borough that, causes or results in: (i) annoyance or discomfort to persons beyond the boundaries of that property; (ii) 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 (iii) disturbance 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. Specifically, the word "nuisance" shall include, but shall not be limited to, the following:

1. Loud playing of radios, television sets, amplifiers and other sound devices so as to be heard beyond the premises from which the same shall emanate.
2. Operating gasoline-powered lawn mowers or gasoline powered chain saws on any week day before 7:00 a.m.
3. 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.
4. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:
  - a. open wells or cisterns
  - b. open excavations
  - c. unfinished buildings, foundations or other structures
  - d. buildings or structures damaged or partially destroyed or in a state of disrepair or danger
  - e. dangerous placement or storage of vehicles, materials or equipment
  - f. lakes, ponds or swimming pools not properly safeguarded
  - g. stagnant water in pools in which mosquitoes, flies or insects multiply
5. Carrying on any building or road construction, excavation, drilling, or trenching, or the operation of heavy equipment or trucks in connection therewith at any time on Sunday or a legal holiday, or on any other day of the year at any time between dusk and 8:00 a.m. without a special permit approved by Borough Council and issued by the Borough Secretary of the Borough of Clymer. There shall be a \$20.00 fee for the permit and Council may put conditions on the permit as dictated by circumstances. The special permit shall be issued only if it is shown that the construction, excavation, drilling or trenching must proceed as a matter of emergency or that it can be carried on in such a manner or in such place that the public or residents will not be annoyed or disturbed by such construction, excavation, drilling or trenching.
6. Carrying on construction, excavation, drilling or trenching in such a manner that dirt is carried by wind onto adjacent properties or that mud is tracked or drained into streets adjacent to the project.
7. Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the same before 5:00 p.m. of the day on which the same was deposited thereupon.

8. 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.

9. Creating or maintaining "attractive nuisances," which is the leaving of a dangerous instrumentality which by its character is dangerous and attractive to children and in a place frequented by children.

B. The word "person", as used in this Ordinance, shall mean and include any natural person, partnership, association, firm or corporation.

C. In this Ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

Section 2. Unlawful to Create or Maintain Nuisance.

It shall be unlawful for any person to create, continue, cause, maintain or permit to exist any nuisance at any place within the Borough.

Section 3. Removal or Abatement of Nuisances.

Any person who creates, continues, causes, maintains or permits to exist any nuisance at any place within the Borough, shall, remove or abate that nuisance within twenty-four (24) hours after notice from Council to do so. In the event that it is impossible to remove or abate the nuisance within a reasonable time as determined by Council. If that person fails, neglects or refuses to abate the nuisance within the time limit, Council shall have authority, in person or by its agents and/or employees, to remove or abate the nuisance, and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, Council shall collect the cost and expense of the abatement or removal from the person who created, continued, caused or maintain the nuisance and/or permitted it to exist, that person having failed, neglected or refused to remove or abate the nuisance, with an additional amount of twenty percent (20%), in the manner provided for the collection of municipal claims, or by an action in assumpsit. Provided, the cost and expense may be in addition to any penalty imposed under Section 4 of this Ordinance.

Section 4. Penalty for Violation.

Any person who violates any provision of this Ordinance shall be guilty of an offense, and for every such offense shall, upon conviction, be sentenced to pay a fine of not more than \$300.00 and costs of prosecution, and, in default of payment of fine and costs, to imprisonment for not more than thirty (30) days. Each day in which a violation shall exist or continue to exist, after notice from Council as provided in Section 3 of this Ordinance shall constitute a separate offense.

Section 5. Exceptions.

This Ordinance shall not be constructed 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 effect the abatement of a private nuisance. Furthermore, in the exercise of the powers conferred in this Ordinance, the Borough may institute proceedings in equity.

ORDAINED AND ENACTED into law this 10th day of Oct , 1984.

BOROUGH OF CLYMER

ATTEST:

Melanie A. Williard  
Secretary

William Britsky  
President, Borough Council

Norman Richardson  
Mayor