

ORDINANCE NO. 62

AN ORDINANCE OF BENNER TOWNSHIP REGULATING MOTOR VEHICLE NUISANCES

BE IT ENACTED AND ORDAINED, AND IT HEREBY IS ENACTED AND ORDAINED, BY THE BOARD OF SUPERVISORS OF BENNER TOWNSHIP, CENTRE COUNTY, PENNSYLVANIA, AS FOLLOWS:

SECTION 1. TITLE

This Ordinance shall be known as the "Benner Township Motor Vehicle Nuisance Ordinance."

SECTION 2. AUTHORIZATION

This Ordinance is adopted pursuant to Section 702, clauses XII (Nuisances); XXIV (Parking); XIX (Health); XLVII (Public Safety); and LXII (General Powers), of the Second Class Township Code, Act of 1933, May 1, P.L. 103, as amended, 53 P.S. Sections 65712, 65724, 65729, 65741, 65747, and 65762; and Section 6109 of the Vehicle Code, 75 Pa. C.S. Section 6109.

SECTION 3. PURPOSE

The Benner Township Board of Supervisors find that the existence of motor vehicle nuisances on private or public properties in the Township constitutes: 1) a hazard to children; 2) an attraction to vermin and rodents; 3) a blight upon neighborhoods; 4) an unsightly use of land; and 5) a danger to the environment due to broken glass, leakage of oil and other fluids, rust and the decomposition of tires, vinyl and other substances.

SECTION 4. PUBLIC NUISANCE

The Township of Benner declares that the parking of wrecked, abandoned, junked, stripped, inoperable, uninspected or unlicensed motor vehicles in open areas on public or private property in the Township constitutes a public nuisance and is detrimental to the public health, welfare and safety.

SECTION 5. MOTOR VEHICLE NUISANCES PROHIBITED

It shall be unlawful for any person to maintain a motor vehicle nuisance upon open land owned, leased or otherwise controlled by such person except in accordance with the regulations contained in this Ordinance.

SECTION 6. MOTOR VEHICLE NUISANCE DEFINED

A motor vehicle nuisance is defined as any motor vehicle which does not have a current and valid vehicle inspection sticker as required by the Commonwealth of Pennsylvania, and possesses any one or more of the following physical defects:

6.1 Physical Defects

- a. any motor vehicle which is unable to move under its own power;
- b. any motor vehicle which cannot be safely operated upon a street because of lack or failure of steering control, brakes, lights or other controls or equipment necessary for operating a vehicle safely on the streets;
- c. one or more flat or open tires or tubes which could permit vermin harborage;
- d. missing doors, windows, hood, trunk or other body parts which could permit animal harborage;
- e. missing tires resulting in unsafe suspension of the motor vehicle;
- f. upholstery which is torn or open which could permit animal and/or vermin harborage;
- g. broken windshields, mirrors or other glass, with sharp edges;
- h. broken head-lamps or tail-lamps with sharp edges;
- i. broken grill with protruding edges;
- j. broken vehicle frame suspended from the ground in an unstable manner;
- k. disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle;
- l. protruding sharp objects from the chassis;
- m. any body parts with sharp edges including holes resulting from rust;
- n. leaking or damaged oil pan or gas tank which could cause fire or explosion;
- o. exposed battery containing acid;
- p. inoperable locking mechanism for doors or trunk;
- q. open or damaged floor boards including trunk and fire-wall;
- r. damaged bumpers pulled away from the perimeter of vehicle;
- s. loose or damaged metal trim and clips;

- t. suspended or unstable supports;
- u. such other defects which could threaten the health, safety and welfare of the residents of the municipality.

SECTION 7. PROHIBITION OF UNENCLOSED STORAGE OF MOTOR VEHICLE NUISANCES

It shall be unlawful for any person or landowner to park, place, maintain, allow, suffer or permit the unenclosed storage of motor vehicle nuisances on any lot or plot of land in Benner Township. Motor vehicle nuisances, as defined in Section 6 above, may be stored in enclosed areas subject to the following regulations:

- a. No more than two (2) motor vehicles which constitute nuisances may be stored upon any single lot or plot of land in the municipality.
- b. Motor vehicle nuisances shall be stored inside, within a garage or other enclosed building; or, outside, within an area completely surrounded by an opaque fence or wall at least 6 feet high.
- c. Motor vehicle nuisances may also be stored outside in an area surrounded by a chain link fence at least 6 feet high, provided such fence is effectively screened by sight obscuring shrubbery to the height of the fence.
- d. All gates, doors or entrances to the areas, garage or enclosed structures in which motor vehicle nuisances are stored shall be locked at all times when unattended.
- e. All gasoline, oil, transmission fluid, steering fluid, and other flammable liquids shall be removed from motor vehicle nuisances prior to storage.
- f. Motor vehicle nuisances shall be kept free of vermin or rodent infestation at all times.

SECTION 8. EXCLUSIONS

The provisions of this Ordinance shall not apply to:

- a. Storage of three or more motor vehicles which constitute motor vehicle nuisances shall be considered a junk yard subject to such regulations as the municipality has adopted or shall adopt licensing and regulating junk yards; or
- b. Vehicle service stations or vehicle repair garages operating in conformity with the Zoning Ordinance of Benner Township; or
- c. Abandonment and stripping of vehicles, which are regulated by Section 3712 of the Vehicle Code, 75 Pa. C.S. Section 3712;

- d. Farm truck, as defined in Section 102 of the Vehicle Code, 75 Pa. C.S. Section 102; or
- e. Implement of Husbandry, as defined in Section 102 of the Vehicle Code, 75 Pa. C.S. Section 102; or
- f. Farm equipment, as defined in Section 102 of the Vehicle Code, 75 Pa. C.S. Section 102.

SECTION 9. DEFINITIONS

As used in this Ordinance, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

MOTOR VEHICLE -- Any type of mechanical device which is propelled by a motor, and in which persons or property may be transported upon the public streets or highways.

NUISANCE -- Any condition, structure or improvement which constitutes a danger or potential danger to the health, welfare and safety of residents of the municipality.

MUNICIPALITY -- Township of Benner.

PERSON -- A natural person or a firm, partnership, association, corporation or other legal entity.

SECTION 10. INSPECTION OF PREMISES

The Code Enforcement Officer of the municipality is authorized and empowered to go upon and inspect private or public property on which motor vehicles are stored or maintained to determine if there is compliance with this Ordinance.

SECTION 11. NOTICE OF VIOLATION

If the Code Enforcement Officer of the municipality determines that a motor vehicle nuisance exists contrary to the provision of this Ordinance, said Code Enforcement Officer shall issue a written notice to be served by personal service, registered or certified mail, upon the owner, lessee or person in charge of the premises, or if the whereabouts of the owner, lessee or person in charge is unknown, by posting the notice conspicuously upon the offending premises.

SECTION 12. CONTENT OF NOTICE

The notice specified in Section 11 above shall:

- a. Identify the owner, lessee or person in charge of the property on which the motor vehicle nuisance exists.

- b. Describe the condition constituting a violation of this Ordinance.
- c. State a time period within which the condition or violation is to be corrected.

SECTION 13. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer of Benner Township is designated as a law enforcement officer as defined in Pa. R. Crim Proc. No. 3(l) for the purpose of issuing citations and enforcing this Ordinance.

SECTION 14. VIOLATIONS

It shall be a violation of this Ordinance to fail to remove any motor vehicle nuisance within the time stated in the notice provided in Section 11 and 12 of this Ordinance.

SECTION 15. PENALTIES

Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, of a summary offense, be sentenced to pay a fine of not more than \$600.00. Each day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 16. ABATEMENT OF NUISANCES

If the owner, lessee or person in charge of the land upon which a motor vehicle nuisance exists in violation of this Ordinance fails to comply with the notice provided by Sections 11 and 12 above within the time limit stated, the municipality may remove or abate the nuisance and collect the costs of said removal or abatement together with a penalty of fifteen (15%) percent of the cost of said removal or abatement. Said penalty may be collected in summary proceedings or by action or assumpsit or in the manner provided for collection of municipal claims.

SECTION 17. COURT PROCEEDINGS

The Code Enforcement Officer of the municipality may institute proceedings in courts of law or equity to abate motor vehicle nuisances or violations of the Ordinances.

SECTION 18. REMEDIES NOT MUTUALLY EXCLUSIVE

The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather, all remedies may be employed simultaneously or consecutively.

SECTION 19. REPEALER

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed. The following ordinance is specifically repealed:

Ordinance No. 14 -- "An Ordinance of the Township of Benner Prohibiting the Maintenance of a Junkyard, the Storage of Junked, Partially Dismantled, Inoperative or Abandoned Vehicles Upon any Public or Private Property Within the Township Limits, Declaring the Same to be an Abatable Public Nuisance, Providing for the Removal and Impounding of any Vehicle so

Stored, Parked or Left Upon any Public or Private Property and Prescribing Penalties for Violation Thereof."

(Adopted April 7, 1969 by the Benner Township Board of Supervisors)

SECTION 20. SEVERABILITY

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Benner Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 21. EFFECTIVE DATE

This Ordinance shall become effective five days after enactment.

ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF BENNER TOWNSHIP, CENTRE COUNTY, PENNSYLVANIA, THIS 16th DAY OF MAY A. D. 1994

BOARD OF SUPERVISORS OF BENNER TOWNSHIP

by: _____
Michael R. Kelleher, Chairman

Richard C. Lahr, Vice Chairman

Helen Alters, Supervisor

ATTEST:

Sharon Royer, Secretary