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ORDINANCE NO. 98-2

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AN ORDINANCE OF BEAVERTOWN BOROUGH, SNYDER COUNTY, PENNSYLVANIA, PROHIBITING STORAGE OF JUNK VEHICLES ON PRIVATE PROPERTY IN THE BOROUGH WHENEVER THEY ARE NUISANCES IN FACT AND ON PUBLIC STREETS OR ALLEYS OF THE BOROUGH ANYTIME; REQUIRING REMOVAL OF JUNK VEHICLES THAT ARE NUISANCES UPON NOTICE TO THE OWNERS OF THE PROPERTY AND REMOVAL OF JUNK VEHICLES ON PUBLIC STREETS OR ALLEYS OF THE BOROUGH UPON NOTICE TO THE OWNERS OF SUCH VEHICLES; ALLOWING REMOVAL OF JUNK VEHICLES BY THE BOROUGH IN DEFAULT OF REMOVAL BY OWNERS; PROVIDING FOR COLLECTION OF THE COST OF REMOVAL BY THE BOROUGH WITH A PENALTY OF TEN PERCENT OF SUCH COST; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

PROTHONOTARY  
SNYDER CO., PA.

The Council of Beavertown Borough, Snyder County, Pennsylvania, enacts and ordains as follows:

**Section 1. Authority and Purpose.** The power to enact this ordinance is derived from subsections (4), (5), and (74) of section 46202 of the Borough Code, 53 P.S. § 46202(4), (5), & (74), as amended. The purpose of this ordinance is to protect the health, safety, and welfare of the inhabitants of the Borough by prohibiting junk vehicles that are nuisances or that are obstructions of Borough streets or alleys.

**Section 2. Definitions.** Unless the context clearly indicates otherwise, the meanings of terms used in this ordinance shall be as follows:

(a) Borough means Beavertown Borough, Snyder County, Pennsylvania.

(b) Junk vehicle means any motor vehicle which is worn out, discarded, or incapable of operation due to deterioration or destruction of any of its parts.

(c) Nuisance in fact means any junk vehicle that offends a person in the possession of his property, rendering its ordinary use or occupation physically uncomfortable to him, and may include, but is not limited to a junk vehicle which is annoying, injurious, or offensive because it makes a loud noise, gives off a foul odor, creates vibration, is a haven for vermin, or is attractive to persons unlikely to recognize the risks of harm it poses.

(d) Person means every natural person, association, corporation, partnership, and trust. Whenever used in a clause

prohibiting an act or imposing a fine or imprisonment for an offense, *person*, as applied to an association, corporation, partnership, or trust, includes the members, officers, partners or trustees thereof.

(e) Service of notice means any act likely to result in the owner of private property or a junk vehicle receiving a written notice that removal of a junk vehicle is required. Service of notice includes but is not limited to (1) handing a copy to the owner, (2) handing a copy at the owner's residence to an adult member of the owner's family or an adult person in charge of the residence, (3) handing a copy at the owner's residence to the clerk or manager of the hotel, inn, or other place of lodging at which he resides, (4) handing a copy at the office or usual place of business of the owner to his agent or the person for the time being in charge thereof, (5) mailing a copy to the owner by any form of mail requiring a receipt signed by the owner or his authorized agent, (6) mailing a copy to the owner by ordinary mail bearing the Borough's return address on the envelope if the mailing under (5) is returned with a notation by the postal authorities that the owner refused to accept delivery, which service by ordinary mail shall be deemed complete if the envelope is not returned to the Borough within 15 days after mailing, (7) fastening a copy on the main door of the main occupied building on the property, or (8) fastening a copy on the windshield of the junk vehicle stored in a street or alley if the identity or whereabouts of its owner cannot be discovered.

(f) Storage means parking, leaving, keeping, or allowing a junk vehicle to rest or stand on private property for at least 10 consecutive days or unattended on a Borough street or alley for at least 24 hours.

### **Section 3. Prohibited Acts.**

(a) On Private Property. The storage on private property in the Borough of a junk vehicle which is a nuisance in fact is unlawful and is prohibited.

(b) On Borough Streets and Alleys. The storage on Borough streets and alleys of a junk vehicle constitutes an unlawful obstruction and is prohibited.

### **Section 4. Removal.**

(a) From Private Property. The owner of private property where a junk vehicle which is a private nuisance is stored shall remove the junk vehicle from the Borough within ten days after service of notice from the

Borough that such removal is required or shall service written notice on the Borough that he demands a court hearing to determine whether such removal is required. If the owner of the private property fails to remove the junk vehicle or demand a court hearing within the ten days, the Borough may remove the junk vehicle, or cause it to be removed, and may file a civil action against the owner of the private property to recover the cost of removal plus a penalty of ten percent of such cost, or may file an action in equity for a decree requiring the owner of the private property to remove the junk vehicle. If the owner of the private property serves a demand for a court hearing, the Borough may file an action in equity for removal or an action for conviction of a summary offense under Section 5.

(b) From Borough Streets and Alleys. The owner of a junk vehicle stored on a Borough street or alley shall remove it within 24 hours after service of notice from the Borough that such removal is required. If the owner of the junk vehicle fails to remove it within 24 hours, the Borough may remove the junk vehicle, or cause it to be removed, and may file a civil action against its owner to recover the cost of removal plus a penalty of 10% of such cost, or may file an action in equity for a decree requiring the owner to remove the junk vehicle.

#### **Section 5. Summary Offenses; Penalties.**

(a) Summary Offense. Every person who or which commits an act prohibited by this ordinance shall be guilty of a summary offense.

(b) Each Day a Separate Offense. Each day that an act prohibited by this ordinance continues shall constitute a separate offense.

(c) Penalties. Upon conviction before a district magistrate, the offender shall be sentenced to pay a fine of not less than \$60.00 nor more than \$600.00 for each separate offense, together with costs of prosecution, or to undergo imprisonment in the Snyder County Jail for a period of not more than 30 days, or both.

(d) Removal. If the junk vehicle has not been removed from private property or from the Borough's street or alley before sentence is imposed, then the district magistrate when imposing sentence shall order the offender to remove such junk vehicle from the Borough within 10 days in the case of a junk vehicle on private property or within 24 hours in the case of a junk vehicle on a Borough street or alley or be subject to payment of the cost of removal and a penalty of 10% if the Borough removes it or causes it to be removed.

**Section 6. Repealer.** All ordinances and parts thereof in conflict herewith are hereby repealed.

**Section 7. Separability.** If any section, paragraph, sentence, clause,

or phrase of this ordinance is declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby. It is hereby declared to be the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

ADOPTED this 9th day of June, A. D. 1998.

Attest:

**BEAVERTOWN BOROUGH**

By: *Linda G. Thomas*  
Borough Secretary

By: *Bill H.*  
President of Council

APPROVED this 9th day of June, A. D. 1998.

*Clyde W. Wagner*  
Mayor