

# BOROUGH OF CLARKS SUMMIT

LACKAWANNA COUNTY, PENNSYLVANIA

## ORDINANCE NO. 2009-01

AN ORDINANCE AMENDING THE *BOROUGH TREE ORDINANCE* OF THE BOROUGH OF CLARKS SUMMIT TO PROVIDE FOR AN ENFORCEMENT OFFICER, THE ISSUANCE OF VIOLATION NOTICES AND THE FILING OF COMPLAINTS.

### **ITEM 1**

**DELETE THE PENALTIES FOR OFFENSES SECTION AND ADD THE FOLLOWING SECTIONS:**

#### **Enforcement Officer; Notice**

The Borough Council hereby appoints the Borough Code Enforcement Officer and the Borough Engineer who shall each have the authority as an Enforcement Officer to enforce the terms of this Ordinance. The Borough Council may also appoint one or more Assistant Enforcement Officers who shall have all authority of the Enforcement Officer.

- A. Inspections; Permission - The Enforcement Officer may inspect any premises to determine whether any violations of this Ordinance exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner and/or occupant for the same. If the Enforcement Officer is unable to obtain such permission, the Enforcement Officer shall have the authority to conduct the necessary inspection of the premises in accord with this Ordinance and the applicable laws of the Commonwealth.
- B. Consultation - In carrying out any of the duties authorized by this Ordinance, the Enforcement Officer, may consult with the Shade Tree Commission, Borough Engineer or any other professional designated by the Borough Council.
- C. Notice of Violation - Whenever an inspection discloses that a violation exists, the Enforcement Officer shall issue a notice of violation to the owner and/or occupant of the premises. The notice:
  1. Shall be in writing;
  2. Shall include a statement of the reasons it is being issued;
  3. Shall state a reasonable time to rectify the conditions constituting the violation, and may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.
  4. Shall inform the owner and/or occupant that should he fail to correct the violation as required by the notice, he will be subject to the enforcement remedies and/or actions to abate the nuisance provided by this Ordinance
- D. Service of Notice - Except in emergency cases, the notice shall be sent by registered mail or by certificate of mailing, or personally delivered to, the owner and/or the occupant of the premises. Where the owner and/or occupant is absent from the Borough, all notices shall be deemed to be properly served upon the owner and/or occupant if:
  1. A copy of the notice is served upon the owner and/or occupant personally; or,
  2. A copy of the notice is sent by registered mail, by certificate of mailing, or by proof of mailing

to the last known address of the owner and/or occupant, regardless of receipt, and is posted in a conspicuous place on or about the premises affected by the notice; or,

3. The owner and/or occupant is served with such notice by any other method authorized under the laws of the Commonwealth of Pennsylvania.
- E. Emergency Cases - Whenever the Enforcement Officer finds that an emergency exists in the form of a violation which poses an imminent threat to the public health, safety or welfare and which requires immediate action to eliminate such imminent threat, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to correct the violation and eliminate the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. The costs of such emergency correction shall be collected in the same manner as provided herein for other cases.

**Violations; Enforcement Remedies; Action to Abate Nuisance**

- A. Violations - Failure to comply with any provision of this Ordinance, and/or failure to comply with an order to correct a violation, shall be violations of this Ordinance.
- B. Fine - Any person who has violated or permitted the violation of any provisions of this Ordinance shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not more than two-hundred fifty dollars (\$250.00) per day of violation, together with the costs of suit. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative and other costs, interest and reasonable attorney fees collected for the violation of this Ordinance, shall be paid over to the Borough.
- C. Other Remedies - The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- D. Abatement By Borough and Recovery of Costs- In addition, if the owner and/or occupant or person in control of any dangerous premises, or act or condition constituting a public nuisance or violation of this Ordinance, fails to respond to a notice of violation directing the removal or abatement of the public nuisance or correction of the violation within the time limit prescribed by the Borough Council shall be empowered to cause such work of abatement to be commenced and/or completed by the Borough, the Borough may enter a municipal lien upon the premises to recover the cost and expense thereof.

**ITEM 2**  
**SEVERABILITY**

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Borough Council having adopted this Ordinance as if such invalid portions had not been included therein.

**ITEM 3**  
**EFFECTIVE DATE**

This Ordinance shall become effective five (5) days following its adoption.

**ITEM 4**

**ADOPTION**

ORDINANCE ORDAINED AND ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the Borough Council of the Borough of Clarks Summit, Lackawanna County, Pennsylvania.

BOROUGH OF CLARKS SUMMIT

By: \_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Secretary

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Mayor