ORDINANCE NO. 1236

NUISANCE ORDINANCE

AN ORDINANCE OF THE BOROUGH OF TYRONE, A HOME RULE MUNICIPALITY, RESCINDING ORDINANCE NO. 779 AND REPLACING IT WITH AN ORDINANCE TO: MAKE UNLAWFUL NUISANCES IN THE BOROUGH OF TYRONE; SET FORTH DEFINITIONS; SET FORTH EXAMPLES OF NUISANCES; PROVIDE FOR THE REMOVAL THEREOF ON PUBLIC OR PRIVATE GROUNDS AFTER NOTICE TO THE OWNERS TO DO SO, AND PRESCRIBE PENALTIES FOR VIOLATION.

The Borough of Tyrone hereby ordains the following:

SECTION 1. DEFINITIONS: 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 – shall mean the Borough of Tyrone.

2. COUNCIL – shall mean the governing body of the Borough of Tyrone

3. OWNER - shall mean a person owning, leasing, occupying or having charge of any premises within the Borough.

4. PERSON – shall mean any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

5. NUISANCE - shall mean 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 his reasonable rights of a person or property.

SECTION 2. NUISANCES DECLARED UNLAWFUL: Nuisances, including, but not limited to the following, are hereby declared to be unlawful:

A. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, washstands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or any foul or offensive water or foul or offensive drainage of any kind, from property along any public highway, road, street, avenue, lane or alley: or from any property into or upon any adjoining

property.

B. Draining or flowing, or allowing to drain or flow, any water or drainage from within dwelling situate upon property along public highway, road, street, avenue, lane, or alley in the Borough into or upon the cart way or traveled portion for said drainage by means of a drainage ditch or otherwise.

C. Obstructing streets, etc. For any person to permit any mud, dirt, coal, wood, brick, stone, gravel, clay, sand, rubbish or any other matter to remain upon the streets or in the gutter in front of his premises more than twenty-four (24) hours after it has been deposited there except by special permission of the Council.

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

E. Interfering with the flow of a stream, creek or other waterway, by means of dam construction or otherwise, or removing the embankment of a stream so as to alter the natural flow of the stream.

F. Defacing Public and Private Property: It shall be unlawful for any person, partnership, corporation or agent acting independently or under the direction of the principal to deface any private or public buildings, structures, signs, banners, or vehicles within the Borough. Examples of Defacing shall include but not be limited to the following examples; application of paint, inks and dyes; affixing of any printed materials such as signs or posters; destruction or removal; defacing in any manner.

G. Disturbance - It shall be unlawful for any person(s) to make or cause to be made, a disturbance within the limits of the Borough that endangers or injures the safety or health of humans or animals; or is unusual for the time of day or location where it is produced or heard or jeopardizes the value of property or erodes the integrity of the environment; or materially disturbs or annoys persons in the neighborhood who are of normal sensibilities.

(1) Waste Collection. Any person collecting, removing and/or transporting municipal, construction and/or demolition waste and/or recyclables, as the same are defined pursuant to the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act, from a any commercial and/or any other non- residential site, shall be permitted to do so only between the hours 6:00 a.m. and 9:00 p.m.
(2) Dogs and animals, etc. For any person owning, keeping, or permitting any dog, bitch or animal on or about his premises to disturb the peace and quiet of the night by barking, howling, crying or otherwise making a noise for a continuous period of one-half hour in any one hour period and which can be heard a distance of 150 feet from that person's property line.
(3) No person shall use and/or explode any firework as that term is defined under Pennsylvania law, unless said person is a competent operator who has been authorized by the Borough to do so. The use and/or explosion of such fireworks shall take place only on

the day before, day of and day after the 4th of July of any year, during the hours of 9 a.m. to 12:00 p.m. unless otherwise authorized by the Borough. Use and/or explosion during any other dates and/or times shall be prohibited.

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

1. By making personal delivery of the notice to the owners; or

2. By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides, but if no adult member of the family is found, then to an adult person in charge of such residence; or

3. By fixing a copy of the notice to the door at the entrance of the premises in violation; or

4. By mailing a copy of the notice to the last known address of the owner by certified mail; or

5. By publishing a copy of the notice in a local newspaper of general circulation within Blair County, Pennsylvania, once a week for three (3) successive weeks. Such notice shall set forth in what respect such condition constitutes a nuisance, whether removal is necessary and required by the Borough, or whether the situation can be corrected by repairs, alterations or by fencing or boarding, or in some way confining and limiting the nuisance.

Such notice shall require the owner to-commence action in accordance with the terms thereof within twenty (20) days and thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the provisions of Section 2(B), (F), (1), (J), or (K) is violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

SECTION 4. PENALTY FOR VIOLATION: This Ordinance regulates building, housing, property, maintenance, health, fire, public safety, air or noise pollution, and shall be enforced pursuant to 53 P. S. 6660 1 (c. 1)(2).

1. Enforcement thereof shall be by an action before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa. R.Crim.P. No. 83(c) (relating to trial and summary cases). The Council hereby sets a criminal fine in the amount of not less than One Hundred ($100.00) Dollars and not more than One Thousand ($1,000.00) Dollars per violation, and the costs of prosecution, and, in default of payment of such fine and costs of prosecution, to undergo imprisonment of not more than Ten (10) days, provided, further, that each day's continuance of a violation shall constitute a separate event.

2. The Borough Council may direct the removal, repair, or alterations, as the case may be, to be

done by the Borough and to certify the costs thereof to the Borough solicitor, the cost of such removal, repairs or alterations shall be a lien upon such premises from the time of such removal, cutting, repairs and alterations which date shall be determined by the certificate of the person doing such work, and filed with the Borough Secretary.

3. 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.

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. REPEALER: Any Ordinance, or part of an Ordinance, of the Borough of Tyrone, Blair County, Pennsylvania, conflicting with this Ordinance or any part thereof hereby is repealed insofar as the same affects this Ordinance. More specifically, in addition to any other inconsistent Ordinance or part thereof, this Ordinance hereby repeals and replaces in its entirety, Ordinance 779, a copy of which is attached hereto for the sole purpose of satisfying the Borough Home Rule Charter.

SECTION 7. EFFECTIVE DATE: This Ordinance shall become effective at the earliest possible date provided by law.

ORDAINED AND ENACTED as an Ordinance of the Borough of Tyrone by the Borough Council on this 14th day of December 2005.

ATTEST:

Sharon Dannaway,
Manager/Secretary

BOROUGH OF TYRONE

By:

Patricia S. Stoner
Mayor/President of Council