ORDINANCE NO. 2018-2

PROPERTY MAINTENANCE RULES AND REGULATIONS

NUISANCE ORDINANCE: BOROUGH OF JIM THORPE

Section 1. **PURPOSE:**

Lack of maintenance of properties, improper storage of trash and rubbish, storage of inoperable / non-registered vehicles, and accumulation of snow and ice are costly problems that contribute to the deterioration of property values, general disorder in a community and may result in health hazards for citizens.

These problems degrade the physical appearance of the Borough, which reduces business and tax revenue **thereby** inhibiting economic development, and negatively affect the quality of life and community pride of the citizens of Jim Thorpe. Recognizing these are community problems, the purpose of this Ordinance is to promote the health, safety and general welfare of the citizens of the Borough of Jim Thorpe.

Section 2. **DEFINITIONS:**

Definitions of the following words, terms, and phrases (unless context clearly indicates otherwise) are as follows:

GARBAGE - the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food or other non-toxic household waste (bottles, cans, clothing, compost, disposables, food packaging, food scraps, newspapers/magazines, yard trimmings, etc.).

HAZARDOUS WASTE - any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

(1) Cause, or significantly contribute to the potential for serious illness, injury or mortality.
(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE (HHW) - waste which would be chemically or physically classified as a hazardous waste, but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: toxic, flammable, reactive, or corrosive. HHW consists of numerous products that are common to the average household – E.g., pesticides and herbicides, cleaners, automotive products, paints, and acids.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

JUNKED VEHICLE / *MOTOR VEHICLE NUISANCE - any vehicle that presents a hazard or danger to the public or is a public nuisance by virtue of its state or condition of disrepair. *The definition of Motor Vehicle is "any type of mechanical device, capable of, or at any time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways – including trailers or semitrailers pulled thereby."
The following conditions, if present, are examples of a state or condition of disrepair:

(1) Rusted and or jagged metal on or protruding from the body of the vehicle.
(2) Broken headlamps, tail lamps, bumpers, or grills.
(3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
(4) Broken windshields, mirrors or other glass.
(5) Any vehicle suspended, stored or placed on blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.

(6) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.
(7) Any fluids leaking from vehicles, deflated or flat tires, which may be harmful to the public or the environment.
(8) Unsecured and or unlocked doors, hood, or trunk.
(9) One or more open tires, tubes, or other conditions/objects, which could permit animal harborage: rodents, insects or other pests.
(10) Disassembled body or chassis parts stored in on or about the vehicle.
(11) Such other defects which the Fire Department, Police, Zoning Officer or any Borough Department determines to be a danger to the general-public or property.
(12) Motor vehicles parked or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.
(13) Vehicles that do not display a current valid license and registration.

The foregoing examples are not inclusive of all conditions, which may constitute a state or condition of disrepair.

LITTER - includes, but is not limited to: all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

LOCAL RESPONSIBLE AGENT - any person residing or working within the Borough of Jim Thorpe designated to accept service on behalf of a legal owner or operator of a rental dwelling unit.

MOBILE VENDOR - a vendor or seller of food and/or goods from a vehicle or other conveyance upon the public streets or alleys of the Borough that does not typically remain stationary.

MUNICIPAL WASTE - any garbage or refuse: solid, liquid, semisolid, or gaseous material, which is secondary to the operation of residential, municipal, commercial, institutional establishments or community activities and which is not classified as residual waste or hazardous waste as defined herein. The term does not include source separated recyclable materials or organic waste.

NOTICE OF VIOLATION - a written document issued to a person in violation of a Borough ordinance, which specifies the violation and contains a directive to take corrective action within a specified time-frame or face further legal action.

NUISANCE - any condition, structure, or improvement, which constitutes a danger or potential danger to the health, safety, or welfare of citizens of the Borough, or causes a blighting effect in Borough neighborhoods. See also the definition of "public nuisance."

OWNER - A person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property including the principals of a limited liability company or officer, director or shareholder of a corporation if that individual is responsible for the management and control of the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON - every natural person, firm, corporation, partnership, association, or institution.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited temporarily,

continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC OFFICER - any police officer, authorized inspector, zoning officer, or public official designated by the Borough to enforce the Borough ordinances.

PUBLIC NUISANCE - any conditions or premises, which are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RESIDUAL WASTE - any discarded material or other waste including solid, semisolid, or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations, excluding municipal water and sewer operations.

RESPONSIBLE PERSON- a person in control of any commercial place which may include, but not be limited to, a property manager, tenant, or owner and an owner or person in control of any private property including, but not limited to a tenant.

RUBBISH - combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials.

SIDEWALK AREA - the public right-of-way between the property line and the curb line or the established edge of the roadway.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET - a form issued by a police officer or public officer to a person who violates a provision of this Part. The violation ticket is an offer by the Borough of Jim Thorpe extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator.

WEEDS - shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria:

(1) Exceed eight (8) inches in height.
(2) Exhale unpleasant noxious odors or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush.
(3) May conceal filthy deposits or serve as breeding places for mosquitoes, other insects, or vermin.
(4) May cause a public nuisance.

Weeds shall not include cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

YARD - an open space on the same lot with a structure.

Section 3. **Public Nuisance Violations.**

A person, owner, or responsible person commits a public nuisance violation by violating any of the following:

(1) **Accumulation of Rubbish or Garbage.** All exterior property and premises, and the interior of every

structure, shall be free from any accumulation of waste, trash, rubbish, or garbage.

(2) **Animal Maintenance and Waste/Feces Cleanup**. People owning, harboring, or keeping an animal within the Borough of Jim Thorpe shall not permit any waste matter/feces from the animal to collect and remain on the property, which causes or creates an unhealthy, unsanitary, dangerous, or offensive living condition. All waste from animals must be cleaned up on a daily basis. It is not permissible for animal owners to have their pets' waste matter/feces desecrate or befoul any other private or public property, or person.

(3) **High Weeds, Grass or Plant Growth**. All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight (8) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation. Cultivated flowers, gardens, trees, and shrubs shall not be included as a violation of this Part.

(4) **Motor Vehicles**. It shall be unlawful to store, park, or place any unregistered, uninspected, inoperative, unlicensed, or nuisance motor vehicle on any premises. No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Outdoor painting of vehicles is prohibited.

(5) **Outside Placement of Indoor Appliances/Furniture**. It is prohibited to store or place any/all indoor appliances or indoor furniture including, but not limited to: ranges, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except for the temporary purpose to perform maintenance on said property, or for placement of garbage disposal (placed no earlier than the day before scheduled pick up).

(6) **Snow and Ice Removal from Sidewalks**. Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Borough of Jim Thorpe, is required to remove any snow or ice from their sidewalk, sufficient to create a path of thirty (30) inches, within twelve (12) hours of the cessation of said snow and ice falling. Should any property be a place of business within the Borough of Jim Thorpe, any snow or ice must be removed, sufficient to create a path of thirty (30) inches, within four (4) hours of the cessation of said snow and ice falling. If and/or when the snow and/or ice cessation happens during the hours of darkness, the time limit of removal of all snow and ice begins at daybreak.

(7) **Storage Containers for Waste or Trash.** The owner of every premises shall supply approved containers for waste /trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and odor free at all times. All containers must be stored a location on the owner's property not within the public right-of-way or readily visible from the public right-of-way. The persons occupying any dwellings are limited to containers not exceeding 50 pounds each and one bulky item not exceeding 275 pounds each. Waste/trash containers may only be placed in front of any property within twenty-four (24) hours before the day of the scheduled waste/trash pick -up day. Once the licensed hauler removes the waste/trash from any property, all containers must be stored so they are not on the public right-of-way or readily visible from the public right-of-way within twenty-four hours after pick-up.

(8) **Swimming Pools**. Any private swimming pool or wading pool, must be maintained in a safe and sanitary condition. It is not permissible for any person to keep or maintain, cause or permit within the Borough a swimming pool, which does not meet clear visibility from the water's surface to the pool bottom. Swimming pools shall not be maintained in such a manner as to create a breeding ground for mosquitoes; that is detrimental to the safety and welfare of the public; or causes a blighting effect in Borough neighborhoods.

(9) **Prohibited Conduct.** No person within the Borough limits shall engage in fighting or threatening or in violent or tumultuous behavior; make unreasonable noise; create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Section. 4 **Authority for Issuance of Violation Ticket.**

Upon finding a public nuisance violation, any Public Officer of the Borough of Jim Thorpe, may issue public nuisance violation tickets to the owner and/or occupant of the property at issue or to the individual(s) known to have violated this Ordinance.

(1) The provisions of this Ordinance shall be enforced by police officers, zoning officer, or any other public officer authorized to enforce ordinances.

(2) Any violation of the provisions of this Ordinance may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to the violator.

Section 5. **Service.**

A violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

Section 6. **Separate Offense.**

Each day a violation continues or is permitted to continue shall constitute a separate violation for which a separate fine may be imposed.

Section 7. **Abatement of Violation**

(1) Any person or business violating this ordinance is hereby directed to satisfy the Borough of Jim Thorpe and its citizens, upon issuance of a nuisance ticket, by correcting the violation in question, or by commencing with the correction there, within 72 hours of receiving notice of the ticket violation. A Public Officer is authorized and empowered to cause a violation to be corrected. The cost shall be determined by the Borough Public Officer in order that the Borough shall be compensated for both direct and indirect costs and expenses incurred.

(2) The Borough of Jim Thorpe and/or its contractor, per the direction of the Borough, reserves the right to abate the violation in question at the expense of the owner. If the Borough has affected the abatement of the violation, the cost thereof may be charged to the owner of the property, tenant, or offending party. A bill/invoice will be generated to the violator for payment separate from the nuisance ticket, which will also be paid separately.

(3) In all instances where the Borough abates the violation, in addition to the fine set forth in the nuisance ticket, the Borough is authorized to recover from the offending party, the owner of the property, or tenant, the abatement charges and such other charges established by the Borough and the rules and regulations.

(4) Borough of Jim Thorpe Cleanup. The Borough has the right to determine if the abatement will be completed by borough staff or by a contractor. If completed by borough staff, the borough has the right to charge rates based on the borough's actual costs for labor, equipment (fair rental rates established by FEMA/PEMA) and materials. If completed by a contractor, the borough has the right to charge 100% of the contractor's bills plus a 20% administration cost for such items as scheduling, clerical, postage, etc.

(5) Contractor Cleanup. The Borough reserves the right to direct a contractor to perform the abatement of the violation in question once seventy-two (72) hours passes from the date of issuance of the nuisance ticket. Should the violation present imminent danger and/or pose a health hazard and/or risk, the Borough reserves the right to direct the contractor to perform the abatement immediately. The contractor will submit a bill for their work to the Borough of Jim Thorpe and the administration fee in addition to the cost of the contractor.

Section 8. **Fines and Penalties**

A. For the first of a violation of this Part within a 12-month period, violation tickets shall be issued in the amounts of $25.00, as set forth on the chart below.

B. For the second offense of a violation of this Part within a 12-month period, violation tickets shall be issued in the amounts of $50.00, as set forth on the chart below.

C. For the third offense of a violation of this Part within a 12-month period, violation tickets shall be issued in the amounts of $100.00, as set forth on the chart below.

D. For each offense subsequent to three offenses of this Part within a 12-month period, amounts of violation tickets shall increase in the amount of $100.00, accumulative for each subsequent offense.

E. Any persons who receive a violation ticket for any violation of this Part may, within fifteen (15) days, admit the violation, waive a hearing, and pay the fine in full satisfaction.

F. Any person who violates this Part shall pay a fine as set forth herein for each offense, plus all direct and indirect costs incurred by the Borough for the cleanup and abatement of the violation.

Violation	Description	Fine 1	Fine 2	Fine 3+
QOL-OOI	Accumulation of rubbish or garbage	$25.00	$50.00	$100.00
QOL-002	Animal maintenance and waste/feces clean-up	$25.00	$50.00	$100.00
QOL-003	High weeds, grass or plant growth	$25.00	$50.00	$100.00
QOL-004	Motor vehicles	$25.00	$50.00	$100.00
QOL-005	Outside placement of indoor appliances/furniture	$25.00	$50.00	$100.00
QOL-006	Snow and ice removal from sidewalks	$25.00	$50.00	$100.00
QOL-007	Storing containers for waste or trash	$25.00	$50.00	$100.00

Section 9. **Violation Ticket Penalties**

A. If the person in receipt of a $25.00 violation ticket does not pay the fine within fifteen (15) days, the person will be subject to a $10.00 penalty for days 16 through 30.

B. If the person in receipt of a $50.00 violation ticket does not pay the fine within fifteen (15) days, the person will be subject to a $25.00 penalty for days 16 through 30.

C. If the person in receipt of a $100.00, or higher violation ticket does not pay the fine within fifteen (15) days, the person will be subject to a $50.00 penalty for days 16 through 30.

D. Failure of the person to make payment or request a hearing within thirty (30) days of a violation ticket shall make the person subject to a citation for failure to pay.

E. If violations are continuous or egregious, Code Officials have the right to issue citations without first issuing tickets, provided notice has been given. Upon issuance of four (4) four tickets for the same violation, right is reserved for the Code Officials to issue citation for the fifth and subsequent offenses.

Section. 10 **Citations / Fines**

Any person, firm, or corporation who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction, be ordered to pay a fine of not less than one hundred ($100.00) dollars, and not more than one thousand ($1,000.00) dollars on each offense, the costs of prosecution including restitution of the fees of the Code Official, or imprisoned no more than ninety (90) days, or both.

Section 11. **Restitution**

The Magisterial District Judge may order the violator to make restitution to said real or personal property owner and to the Borough of Jim Thorpe for the costs of prosecution including the fees of the Code Official.

Section 12. **Collections**

At the discretion of the Borough of Jim Thorpe, all tickets for which payment is not received within forty-five (45) days of issuance of a ticket for which an appeal is not taken, and forty-five (45) days from denial of appeal and monies paid by the Borough of Jim Thorpe for abatement of a violation not paid within forty-five (45) days of billing, may be turned over by the Borough to a collection agency for receipt.

Section 13. **Liens**

At the discretion of the Borough of Jim Thorpe, liens may be placed upon a property against which tickets were issued for which payment is not received within forty-five (45) days of issuance of a ticket for which an appeal is not taken, and forty-five (45) days from denial of appeal and monies paid by the Borough of Jim Thorpe for abatement of a violation and not paid within forty-five (45) days of billing.

Section 14. **Nonexclusive Remedies**

The penalty lien and collection provisions of this Section shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Borough of Jim Thorpe as may be deemed appropriate for carrying out the purposes of this Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the Borough in the case of a violation of any other Borough of Jim Thorpe Code or Codified Ordinances, whether or not such other Code or Ordinance is referenced in this Part, and whether or not an ongoing violation of such other Code or Ordinance is cited as the underlying ground for a finding of a violation of this Part.

Section 15. **Severability**

If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect.

Section 16.

All ordinances or parts of ordinance which are inconsistent herewith are hereby repealed. Specifically repealed include Article 1 of Chapter 348 of the Jim Thorpe Code. All relevant ordinances, regulations, and policies of the Borough of Jim Thorpe, Pennsylvania not amended shall remain in full force and effect.

Section 17.

If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 18.

Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.