

**AN ORDINANCE OF THE BOROUGH OF EAST CONEMAUGH REGULATING CERTAIN CONDUCT AND CONDUCT AND PROHIBITING STORING OR ACCUMULATING ABANDONED OR JUNKED MOTOR VEHICLES JUNK MATERIAL, HIGH GRASS AND WEEDS, ABANDONED OR UNOCCUPIED BUILDINGS OR PARTS OF BUILDING IN A STATE OF DILAPIDATION OR DISREPAIR, STAGNANT WATER, OUTSIDE BURNING ON PRIVATE OR PUBLIC PROPERTY WITHIN THE BOROUGH, AND PROVIDING FOR THE REMOVAL THEREOF ON PUBLIC OR PRIVATE GROUNDS AFTER NOTICE TO THE OWNERS TO DO SO, AND IN DEFAULT THEREOF, TO COLLECT THE COSTS OF SUCH REMOVAL BY THE BOROUGH, AND PRESCRIBING PENALTIES FOR VIOLATION.**

**NUISANCE ORDINANCE  
ORDINANCE NO. 09-03**

**I. PURPOSE AND INTENT**

- A. That to protect the citizens and residents of East Conemaugh Borough, Cambria County, Pennsylvania against nuisances of and incident to the conduct, behavior and activities herein defined with the resulting detriment and danger to the public health, welfare, safety and the the Borough Council of East Conemaugh Borough, Cambria County, Pennsylvania deem it to be in the best interests and general health, welfare and safety of the citizens and residents of East Conemaugh Borough to regulate thereof and to that end this ordinance specifically declares as follows:
1. to protect the public against the unlawful activities, behavior and conduct herein define which constitute a nuisance and
  2. to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to others in the legitimate enjoyment of their rights of person or property; and

**II. DEFINITIONS**

- A. 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 East Conemaugh, which is located within the confines of Cambria County, Pennsylvania.
2. **Borough Council** shall mean is the Borough Council of East Conemaugh Borough Cambria, County, Pennsylvania.
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. **Vegetation** shall mean any grass, weed, or plant or tree growth whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.
6. **Nuisance** shall mean:
  - a. the unreasonable, unwarrantable, or unlawful use of public or private property which causes interference, 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;
  - b. the doing of an unlawful act or omitting to perform a duty or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
    - (1) annoys, injures, or endangers the comfort, repose, health or safety of other persons,
    - (2) is offensive to any of the senses of any person;
    - (3) unlawfully interferes with, obstructs or tends to obstruct or render dangerous for passage any streams, public park, square, alley, street, or highway in the Borough;
    - (4) in any way renders other persons insecure in life or the use of property;

7. **Abandoned or Junked Motor Vehicles** shall mean any vehicle in non-serviceable condition or without having either a current inspection sticker and current registration plate.

### III. NUISANCES DECLARED ILLEGAL

- A. Nuisances, including, but not limited to the following, are hereby declared to be illegal:

1. Storing or Accumulating the following:

- a. Garbage, ashes, refuse or rubbish.

(1) Garbage

- (a) Wastes resulting from the

- i) handling, preparation, cooking and consumption of food;
- ii) handling, storage and sale of produce; or
- iii) placing or permitting to remain anywhere in the Borough any material subject to decay other than leaves or grass, excepting in a tightly covered container; excepting that a mulch heap is permitted, provided that said mulch heap is properly maintained for gardening purposes and does not materially disturb or annoy persons of ordinary sensibilities in the neighborhood;
- iv) the storage of garbage that may pose a potential health and safety problem to any person by any person for more than 14 days.

(2) Ashes

- (a) Residue from fires:

- i) used for cooking; or

ii) for heating buildings.

(3) Refuse/rubbish

(a) Combustible material or trash, including, but not limited to,:

- i) paper,
- ii) cartons,
- iii) boxes,
- iv) barrels,
- v) wood,
- vi) excelsior,
- vii) tree branches,
- viii) yard trimmings,
- ix) leaves,
- x) wood furniture, or
- xi) bedding; or

(b) noncombustible trash, including, but not limited to,:

- i) metals,
- ii) tin cans,
- iii) metal furniture,
- iv) dirt,
- v) small quantities of rock,
- vi) pieces of concrete,

- vii) glass,
- viii) crockery,
- ix) other mineral waste;
- x) street rubbish, including
  - a) street sweeping dirt,
  - b) catch-basin dirt.

(c) refuse shall not include:

- i) earth and wastes from building operations,
- ii) leaves, cornstalks, stubble or other vegetable material generated in the course of harvesting agricultural crops.

(4) It shall be unlawful to cause or permit to accumulate any dust, ashes or trash of such a material that it can be blown away by the wind anywhere in the Borough excepting in a covered container.

b. Junk Material, includes, but is not limited to,:

- (1) unused or abandoned machinery,
- (2) equipment or appliances, and
- (3) all forms of waste and refuse of any type of materials, including, but not limited to scrap metal, glass, industrial waste and other salvageable materials, unless for resale, then can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Borough, or by the Commonwealth of Pennsylvania.

c. Abandoned or Junked Motor vehicles that can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Borough, or by the Commonwealth of Pennsylvania.

(1) This section shall not apply to any person who has possession of any abandoned or junked motor vehicles that is either in the vehicle repair business or is licensed automobile dealer by the Commonwealth.

- d. more than three (3) antique or collector motor vehicles for restoration which are neither sheltered by a building, nor enclosed behind an evergreen or solid fence as permitted by applicable zoning ordinances;
- e. in a non-orderly fashion three (3) or less antique or collector motor vehicles for registration.

B. A motor vehicle, machinery, or equipment nuisance shall also include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

- 1. Broken windshields, mirrors or other glass, with sharp edges.
- 2. One or more flat or open tires or tubes which could permit vermin harbor-age.
- 3. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- 4. Any body parts with sharp edges including holes resulting from rust.
- 5. Missing tires resulting in unsafe suspension of the motor vehicle.
- 6. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- 7. Broken headlamps or tail lamps with sharp edges.
- 8. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
- 9. Protruding sharp objects from the chassis.
- 10. Broken vehicle frame suspended from the ground in an unstable manner.
- 11. Leaking or damaged oil pan or gas tank which could cause fire or explosion.

12. Exposed battery containing acid.
13. Inoperable locking mechanism for doors or trunk.
14. Open or damaged floorboards including trunk and firewall.
15. Damaged bumpers pulled away from the perimeter of vehicle.
16. Broken grill with protruding edges.
17. Loose or damaged metal trim and clips.
18. Broken communication equipment antennae.
19. Suspended on unstable supports.
20. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough of Ebensburg.

C. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, from any dwelling or property into or upon any adjoining property or any public highway, road, street, avenue, lane or alley, any

1. water or
2. foul or offensive water or drainage from:
  - a. sinks,
  - b. bathtubs,
  - c. washstands,
  - d. lavatories,
  - e. water closets,
  - f. swimming pools,
  - g. privies, or cesspools of any kind or nature whatsoever.

D. Burning of

1. tires,
2. tar,
3. plastic or Styrofoam products,
4. materials that when burned give off an offensive odor;
5. materials that when burned cause an inordinate amount of smoke;
6. or garbage.

E. Maintaining or causing to be maintained, any dangerous structure, including but not limited to, abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.

F. Permitting the growth of any:

1. grass in excess of eight inches (8");
2. weeds in excess of eight inches (8");
3. noxious weeds,
4. or any other plant or tree growth that is not edible or planted for some useful, legal or ornamental purpose.

G. Permitting or allowing any well or cistern to be, or remain, uncovered.

H. Obstructing streets by pushing, shoveling, dumping or otherwise depositing any mud, dirt, coal, wood, brick, stone, gravel, clay, sand, rubbish, snow, or any other matter upon the cartway or traveled portion of any public highway, road or street which is maintained by the Borough or by the Commonwealth of Pennsylvania, and allowing same to remain thereon.

I. 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.



J. 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.

K. Defacing Public and Private Property:

1. 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.

a. Examples of Defacing shall include but not be limited to the

- (1) application of paint, inks and dyes;
- (2) affixing of any printed materials such as signs or posters;
- (3) destruction or removal of any printed materials such as signs or posters; or
- (4) defacing in any manner.

L. Spotlighting

1. No person shall shine any spotlight

- a. from any public roads in the Borough, into any fields, woodlands, forests, waters, or other lands outside the main traveled portions of the roads, at any time between the hours of sunset and dawn, on any day or
- b. in any way that impedes the safe movement of traffic upon the streets located within the borough.

2. No person shall shine upon the private property of another person so to annoy, disturb, or otherwise prevent another person from enjoying the privacy of their own property.

3. Shine shall mean the throwing or casting of the rays of a spotlight.

- a. Spotlight shall mean any lamp, light, or other artificial device designed to direct a beam of light, regardless of the size of such

beam or the intensity thereof and regardless of the area of actual illumination thereby.

- (1) Spotlights shall include, but not be limited to, all vehicle headlamps, flashlights, arc lights, and any other devices which direct an intense beam of light on a small area.

#### 4. Exceptions

- a. None of the following acts shall be deemed prohibited by this ordinance:

- (1) Use of a spotlight by any policeman, other law enforcement officer, game protection, fireman, or other emergency officer or government official, in the performance of his or her official duties;
- (2) Use of a spotlight by any person engaged in and for the purpose of assisting in, any rescue operation, any search for or apprehension of any criminal or fugitive from justice, any search for any lost or abducted person, or the lighting of any way or direction of travel for purposes of lawful travel, whether on or off such public road;
- (3) Use of a spotlight by any person engaged in and for the purpose of assisting in, illuminating the scene of any crime, disaster, public disturbance, or other public event, but the intentional shining of spotlights at or for the purpose of discovering any deer, or other game or domestic animals shall not be deemed excused by this exception;
- (4) Any incidental and peripheral or accidental illumination by any spotlight otherwise in lawful use.

#### M. Signs

1. It shall be unlawful for any person to erect any sign that projects across any walk or in any place that would cause danger to life or limb.

- N. For any person to maintain on their real estate any standing or stagnant water in any open vaults, drains, failed cesspools or septic systems.

O. Dogs and other Animals

1. Accumulation of animal excrements on the property.
2. Housing of more than ten (10) animals of the same class or category on the property
3. Animals Running at Large
  - a. it shall be unlawful for any person owning or possessing any animal to permit the same to run at large.
    - (1) "Running at large" shall be defined to be the presence of a dog or other animal at any place except upon the premises of the owner, or upon the premises of another with the consent of the owner of such premises.
      - (a) A dog shall not be considered to be running at large if it is on a leash or under control of a person physically able to control it.
4. Keeping of Vicious Animals
  - a. It shall be unlawful for any person to keep or permit to be kept on his premises any vicious animal as a pet or for display or for exhibition purposes, whether gratuitously or for a fee.
  - b. It shall be unlawful for any person to harbor or keep a vicious animal within the Borough.
    - (1) Any animal which is found off the premises of its owner may be seized by any police officer or humane officer; provided however, that this section shall not apply to animals under the control of a law enforcement or military agency, nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence or other adequate means, from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.
      - (a) "Vicious animal" shall mean any animal which has previously attacked or bitten any person or which

has behaved in such a manner that a person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

- (2) Provisions of this ordinance relating to dogs which habitually bark, howl or yelp shall not apply to a "seeing eye dog" which is used to assist a person who is identified as legally blind.

#### **IV. WRITTEN NOTICE TO VIOLATORS REQUIRED**

A. Whenever a condition constituting a nuisance is permitted or maintained upon a property within the Borough, Borough Council shall cause written notice to be served upon the owner.

1. Service upon the owner of the written notice shall be done in one of the following manners by:
  - a. making personal delivery of the written notice to the owners;
  - b. handing a copy of the written 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;
  - c. fixing a copy of the written notice to the door at the entrance of the premises in violation;
  - d. mailing a copy of the written notice to the last known address of the owner by certified mail; or
2. Contents of written notice
  - a. The written notice shall notify the owner:
    - (1) of the ordinance violation;
    - (2) the owner's duty to abate the violation at their own expense;

- (3) (i) to abate the violation within a reasonable time not to exceed ten (10) days; or
- (a) if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

## **V. PENALTY FOR VIOLATION**

- A. This Ordinance regulates building, housing, property, maintenance, health, fire, public safety, air or noise pollution, and shall be enforced by an action before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil
- B. Procedure for Enforcement
  - 1. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney.
  - 2. The Borough Council hereby sets a criminal fine in the amount of One Thousand (\$1,000.00) Dollars per violation, and the costs of prosecution, and, that each day's continuance of a violation shall constitute a separate event.
  - 3. Failure of Owner to Abate, Discontinue or Remove Nuisance
    - a. In the event that the owner, after receipt of written notice, fails to abate, discontinue or remove the nuisance within the time allotted by this Ordinance, 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.
  - 4. Collection of Costs of Abatement or Removal
    - a. The Borough, may recoup the cost of abatement or removal of the nuisance by means of either

- (1) filing a municipal claim for the cost of abatement and removal, plus any other costs and interest at 10% per annum, or
- (2) file a complaint in equity, compelling the owner of the premises to comply with the terms of any notice of violation or any such other relief as any such court of competent jurisdiction is empowered to afford or.

## VI. SEVERABILITY


- A. 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.

## VII. EFFECTIVE DATE

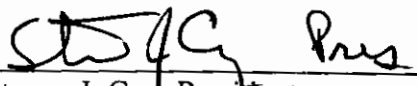
- A. This Ordinance shall become effective five (5) days after the adoption hereof.


**ENACTED AND ORDAINED** into law by the Borough of East Conemaugh, Cambria County, Pennsylvania, this 11 day of August, 2009.

ATTEST:

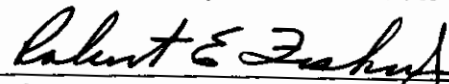
  
Nancy Geyer, Secretary

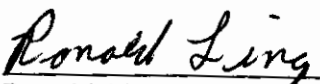
BOROUGH OF EAST CONEMAUGH

 (SEAL)  
Steven J. Coy, President

 (SEAL)  
William Caldwell, Council Member

 (SEAL)  
Constance Gavin, Council Member

 (SEAL)  
Robert Fisher, Council Member

 (SEAL)  
Ronald Ling, Council Member

\_\_\_\_\_(SEAL)  
Linda Theile, Council Member

Grace Malfer (SEAL)  
Grace Malfer, Council Member

Accepted and approved this 11 day of August, 2009, by the Mayor.

Thomas P. Gutskey (SEAL)  
Thomas Gutskey, Mayor