

**STEWARTSTOWN BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2010-4

AN ORDINANCE OF THE BOROUGH OF STEWARTSTOWN, YORK COUNTY, COMMONWEALTH OF PENNSYLVANIA, PROHIBITING NUISANCES OF ALL TYPES, JUNK MATERIAL, ABANDONED OR JUNKED MOTOR VEHICLES, DANGEROUS BUILDINGS, CERTAIN VEGETATIVE GROWTH AND NOISE AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, Borough Council desires to provide for the health, safety and welfare of the residents of Stewartstown Borough by prohibiting nuisances and implementing the fees and fines associated therewith:

WHEREAS, Borough Council has adopted Ordinance 2005-4, which prohibits nuisances of all kinds and implements the fines associated therewith:

WHEREAS, the Borough desires to replace Ordinance 2005-04 in its entirety.

BE IT ENACTED AND ORDAINED, and is hereby enacted and ordained by the Borough Council of Stewartstown, York County, Pennsylvania, under the authority of law as follows:

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SECTION 1: DEFINITIONS.

- A. "Abandoned Motor Vehicle" – a vehicle not housed in a garage or otherwise stored inside a building missing any of the following:
- A valid Pennsylvania registration plate
 - If the car is registered in the State of Pennsylvania, a valid certificate of inspection
 - An ascertainable vehicle identification number
- B. "Animal Disturbance"- any noise from household pets that is loud or harsh and interferes with and deprives any person from peace, quiet, rest or sleep. An Animal Disturbance shall include but not limited to continual barking, howling, screeching, yelping and baying.
- C. "Borough" – the Borough of Stewartstown, which is located within York County, Pennsylvania.
- D. "Borough Council" – the Borough Council of Stewartstown, York County.
- E. "Commercial Property" – shopping centers, professional buildings, single standing establishments, banks, churches, funeral homes, and any other building or lot which is used for industrial or commercial purposes including but not limited to parking lots, sidewalks, walkways, porches, and any other paved area adjacent to the commercial property signage in compliance with Borough regulations.
- F. "Day"- a period of twenty-four (24) hours.
- G. "Household Pets"- any dog, cat, ferret, rabbit, exotic bird or other domestic animal normally and ordinarily kept in or permitted to be at large in or around the dwelling of the owner.
- H. "Junked Motor Vehicle"- an inoperable motor vehicle which is not housed in a garage or otherwise stored inside a building. This classification shall not include vehicles stored at a license salvage yard, commercial garage or other repair shop. Neither shall this classification include any antique or motor vehicle being restored for a period of two (2) years or less.
- I. "Motor Vehicle"- any vehicle that is self propelled and any trailer or semi-trailer designed for use with such vehicles.
- J. "Nuisance"- generally defined as the unreasonable, unwarrantable, or unlawful use of public or private property that causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident of the Borough in the enjoyment of his reasonable rights as a person or in the reasonable use of his property.
- K. "Owner"- a person owning, leasing, occupying or having charge of any property.

- L. "Person"- any individual, partnership, firm, company, association or society, corporation for profit or non-profit.
- M. "Private Property"- any property that is owned by a person, firm, partnership, association or corporation that is located within the Borough. This includes private streets, roads and alleys.
- N. "Property"- is any plot, tracts, premises of parcel of land, with or without improvements thereto, owned or occupied within the Borough.
- O. "Public Property"- property limited to any public street, alley or alleyway, sidewalk or walkway, stairs, playground or other public area located in the Borough. This also includes the floors or stairs of any building or place used by the public.
- P. "Running at Large" or "Run at Large"- being upon any public property or private property, other than that private property owned by the owner (or any other person having custody) of the household pet.

SECTION 2: GENERAL NUISANCES DECLARED ILLEGAL

A. Nuisances. A Person or Owner shall not cause, conduct, permit, tolerate, or otherwise allow any Nuisances on Property that they own, possess or exercise control over. Nuisances, including, but not limited to the following, are hereby declared to be illegal:

1. Storing or accumulating the following:

- a. Garbage- wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce. It shall be unlawful to place or to permit to remain anywhere in the Borough any garbage or other material subject to decay other than leaves and grass, except in a tightly covered container, excepting that a mulch and/or compost pile is permitted, which is properly maintained for gardening purposes and does not materially disturb or annoy persons of reasonable sensitivity.
- b. Refuse/rubbish- Combustible trash, including paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, leaves, wood, furniture, bedding, noncombustible trash, including metals, tins, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste, street rubbish, including street sweeping, dirt, catch basin dirt, and contents of letter receptacles excepting a compost heap is permitted, which is properly maintained for gardening purposes and does not materially disturb or annoy persons of reasonable sensitivity. Provided, refuse shall not include leaves, cornstalks, stubble or other vegetable material generated in the course of harvesting agricultural crops. Except in a covered container, it shall be unlawful to cause or permit to accumulate any

dust, ashes or trash of such material that it can be blown away by the wind anywhere in the Borough.

- c. Ashes- Residue from fire used for cooking and for heating buildings.
 - d. Junk Material, including, but not limited to, unused or abandoned machinery, equipment, appliances, and all forms of waste and refuse of any type of materials, including scrap metal, glass, industrial waste and other salvageable materials, unless for resale, that can be seen from any public highway, road, street, avenue, lane or valley that is maintained by the Borough, or by the Commonwealth of Pennsylvania.
 - e. Any other material, which causes the attraction and/or breeding of vectors, to include rodents, flies, mosquitoes, or other vector known to be a harbinger of disease carrying organism.
- 2. 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 fouls or offensive drainage of any kind, from Property into or upon any adjoining Property.
 - 3. Draining or flowing, or allowing to drain or flow, any water or drainage from within a dwelling situate upon Property along a public highway, road, street, avenue, lane, or alley in the Borough into or upon the cartway or traveled portion for said drainage by means of a drainage ditch or otherwise.
 - 4. Burning of tires, tar products, plastic products or garbage.
 - 5. Permitting or allowing any well or cistern to be, or remain, uncovered.
 - 6. Allowing or permitting any excavation, material excavated or obstruction 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.

SECTION 3: STORAGE OF CERTAIN MOTOR VEHICLES PROHIBITED.

- A. **Unlawful to Abandon a Motor Vehicle for Certain Period of Time.** It shall be unlawful for any Owner or Person to park or store an any street, or in the open on any Property all of the following for a period longer than ten (10) days:

1. Any Abandoned Motor Vehicle, or parts thereof:
2. Any Junked Motor Vehicle, or parts thereof:
3. Any Motor Vehicle disabled by reason of an accident: and
4. Any Motor Vehicle that is inoperable on Public Property.

SECTION 4: VEGETATIVE GROWTH A NUISANCE UNDER CERTAIN CONDITIONS.

A. Conditions.

1. No Person owning or occupying Property within the Borough shall permit any grass weeds, or any vegetation not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six (6) inches, nor shall any noxious weeds prohibited by the Noxious Weed Control Law (3 P.S. §255.8) now or as later amended be permitted to grow within the Borough.
2. No Person shall permit any tree limbs, branches of hedges, bushes, or flowers to extend over sidewalks or the improved portion of the street right-of-way unless there is a minimum clearance of seven (7) feet between the travel surface, whether sidewalk, path or improved street right-of-way and the protruding invasion.
3. No Person owning any Property within the Borough shall permit trees, hedges, bushes, flowers, other vegetation, or fencing which would impair the clear site triangle, seventy-five (75) feet in all directions, measured along the center line from the point of the intersection or the intersection of the driveway or parking lot entrance and the street. Nothing which obstructs the vision of the motorist shall be permitted in this area.

SECTION 5: DANGEROUS BUILDINGS AS A NUISANCE.

A. Conditions. No Person shall permit any building, structure, lot of land or place owned or occupied by him to remain in such condition as to be in a state of disrepair or to present such other conditions as to be dangerous or hazardous to the public or safety in any way. Any such structure, building, lot of land or place is hereby declared to be a Nuisance. The following factors shall be considered, but determinative as to whether or not a building, structure, lot of land or place is dangerous or hazardous to the public health or safety:

1. Its proximity to municipal streets and private alleys.
2. Its proximity to adjacent occupied properties.

3. Whether or not the premises, building or vehicle is secure from the easy intrusion of children.
4. Whether or not the building is a breeding ground for rodents, insects, and other pests or because of its conditions likely to become one.
5. Whether or not there is an accumulation of garbage or rubbish on the premises.
6. Whether or not Abandoned or Junk Motor Vehicles or Motor Vehicle parts are present.

SECTION 6: PETS AS A NUISANCE.

- A. It shall be unlawful for any Owner to allow a household pet to Run at Large at any time within the Borough.
- B. All dogs, cats and other Household Pets must wear an identification tag indicating the Owner's name, Owner's address and telephone number. All dogs must wear a current and valid dog license and rabies tag. All cats must wear a current and valid rabies tag.
- C. Animal Control Officer Responsibilities. It shall be the duty of the animal control officer appointed by the Borough, to respond to all complaints received by telephone and if appropriate and practical to seize and detain any Household Pet, which has been found Running at Large in violation of this section. Any Household Pet found Running at Large and deemed by the Animal Control Officer to constitute a danger to public health and welfare may be killed by the Animal Control Officer.
 1. Owner Contacted: any Household Pet, so seized and detained and bearing a proper identification tag as required by the Commonwealth of Pennsylvania or required by a local ordinance shall be kept and fed for a minimum of two (2) days. The Owner will be contacted by the Animal Control Officer and will have two (2) days to pick up the animal or make other arrangements with the Animal Control Officer or temporary holding facility.
 2. Owner not Identified: Household Pets without proper identification may be placed in the care of the Animal Control Officer, the SPCA, an animal rescue league, or other animal shelter. The SPCA and other shelters will hold the animal for a period of time set forth in their current policies and the Commonwealth of Pennsylvania's Dog Laws.
- D. Traps. The Animal Control Officer may place cruelty free traps on Private Property with the consent of the Property Owner. The said Property Owner shall promptly notify the Animal Control Officer of the capture so that the said officer may take the animal into custody.

- E. Fees. Any Household Pet that is picked up Running at Large where an Owner can be identified will be charge a RTO (return to Owner fee) of at least \$25.00 and up to the total cost of capturing, holding fees, vaccinations and any other service provided including spaying and neutering. Return to Owner fees will be charged to the Owner and check/money orders are to be made payable to the Borough of Stewartstown.
- F. Animal Defecation on Public Property and Private Property.
 - 1. It shall be the duty of the Owner of any animal traversing upon Public Property or Private Property (other than Property owned by the animal's Owner), to immediately remove any feces left by such animal. Animal feces is required to be carried away for disposal in a toilet or placed in a non-leaking container for deposit in a trash can or litter receptacle.
- G. Exemptions. The provisions in this section shall not apply to a guide dog or other animal accompanying blind persons or to a dog or other animal used to assist any other physically handicapped Person.

SECTION 7: NOISE AS A NUISANCE.

- A. Animal Noise. It shall be unlawful and a violation of this Ordinance to be the Owner of any dog or Household Pet which barks or makes any Animal Disturbance which results in a Nuisance as defined in section 1 of this Ordinance. Each twenty-four period represents a separate violation of this Ordinance.
 - 1. Nuisance shall be presumed by the proof of continual Animal Disturbance for two periods, each of which are in excess of fifteen (15) minutes, both of which occurs within a twenty-four (24) hours of each other. In the event an Owner has one or more dogs or other Household Pets, it shall not be necessary to determine a specific dog or Household Pet as the cause of this Nuisance, but shall be sufficient to prove that the animal Nuisance emanated from a dog or Household Pet belonging to that Owner or permitted to remain around his premises.
- B. It shall be unlawful and a violation of this Ordinance to cause or allow any noise or other disturbance that occurs continuously or intermittently for an extended period, which annoys or disturbs a reasonable Person of normal sensitivities, including without limitation,
 - 1. The loud playing of radios, televisions, amplifiers and other sound devices so as to be heard beyond the boundaries of the Property from which the same shall emanate,
 - 2. The operation of gasoline powered lawn mowers, chain saws, and other motorized devices or equipment before 7:00 a.m. and after 10:00 p.m. on any day other than Sunday and holidays which will be before 9:00 a.m. or after 10:00 p.m.,

3. The operation of recreational vehicles including but not limited to all terrain vehicles (ATV's), snow mobiles, motorcycles and any illegal street vehicle on the Property so as to be heard beyond the boundaries of the Property which shall annoy or disturb a reasonable Person of normal sensitivities, and
2. The emptying of dumpsters or other trash containers before 7:00 a.m. or after 10:00 p.m.

SECTION 8: DUTY TO SERVE NOTICE.

- A. It shall be the duty of the Borough Council to serve or cause to be served notice upon any Person who is in violation of the provisions of this Ordinance to demand abatement of the Nuisance within fifteen (15) days. Notice shall be served in one of the following manners:
 1. By making personal delivery of the notice to the Owner of the Property: or
 2. By handing a copy of the notice at the residence of the Owner of the Property to a family member for which he resides, but if no adult member of the family is found, then to an adult Person who is in charge of such residence.

SECTION 9: VIOLATIONS AND PENALTIES.

If the Person served for any violations in these sections does not abate the Nuisance with fifteen (15) days of notice, a civil action shall be commenced in the manner provided by the rules of Civil Procedure. Any Person found in violation of this Ordinance shall be subject to a penalty of not more than Six Hundred Dollars (\$600.00), together with all court and related costs, and reasonable attorney fees, incurred by the Borough. Each day that a violation shall continue shall be deemed to constitute a separate offense.

1. Removal or abatement of Nuisance. If the Person served with a notice of violation of any section of this Ordinance does not abate the Nuisance within fifteen (15) days, the Borough Council may proceed to abate such Nuisance, keeping an account of the expense of abatement, and such expense of abatement shall be charged and collected from said Person in a manner provided by law, either by filing of a municipal lien or claim by the institution of an action in assumpsit or by relief by bill in equity. The recovery of such cost and expense may be in addition to any other penalties imposed under this section.
2. A penalty of ten (10%) percent of such cost will be included in any manner provided by law for the collection of municipal claims, or by action in assumpsit or through equity. The cost, penalty, and five (5%) percent attorney's fees commission shall be a lien on the premises.

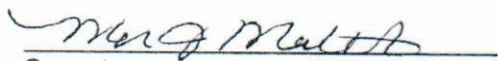
SECTION 10: MISCELLANEOUS.


- A. It is declared that the enactment of this Ordinance is necessary for the protection benefit and preservation of health, safety, and welfare of the inhabitants of the Borough.
- B. Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
- C. All ordinances or parts or provisions of such ordinances which are in conflict with the provisions hereof, including, but not limited to, Stewartstown Borough Ordinances 81-3, 90-3, 96-01, 2000-5, 2001-05, 2001-06, 2001-08, 2002-05, 2005-04 and 2007-06, be and the same are hereby expressly repealed.
- D. This Ordinance shall become effective five (5) days after the date of its enactment as provided by law.

ENACTED AND ORDAINED into an Ordinance this 4th day of October, 2010, by the Borough Council of the Borough of Stewartstown, in lawful session duly assembled.

Attest:

BOROUGH OF STEWARTSTOWN
YORK COUNTY, PENNSYLVANIA


Secretary

By: 
Council President

Approved by the Mayor this 4th day of October, 2010.


Mayor