

**AN ORDINANCE OF THE BOROUGH OF SOUTHMONT,
COUNTY OF CAMBRIA, COMMONWEALTH OF
PENNSYLVANIA, AMENDING AND ESTABLISHING NUISANCE
REGULATIONS, EXCEPTIONS AND PENALTIES**

ARTICLE I: Definitions:

1. The word "nuisance" as used in this Ordinance shall mean and include, in addition to any other definition as contained in this Ordinance, any use of property within the Borough or any condition upon property in the Borough that causes or results in:

- A. Annoyance or discomfort to persons beyond the boundaries of that property.
- B. Interference with the health and/or safety of persons beyond the boundaries of that property or of persons who might reasonably be expected to enter upon or be in that property.
- C. Disturbance to or interference with the peaceful use of the property of others within the Borough, in every case taking into consideration the location of the use or condition and the nature and condition of the surrounding neighborhood. Specifically, the word "nuisance" shall include but shall not be limited to the following:
 - (1) Loud playing of radios, television sets, amplifiers and other sound devices so as to be heard beyond the premises from which the sound emanates
 - (2) The operation of power lawn mowers, leaf blowers, saws or other equipment after dusk or a specific time
 - (3) Operation of or conduct of any activity of any publicly or privately owned or operated outdoor place of amusement or entertainment between the hours of 11:00 p.m. and 7:00 a.m., prevailing time, of the following day unless by previous approval by Council to change times
 - (4) Operating any gasoline or diesel powered vehicle on any public park or playground, unless said vehicle is properly licensed and registered and is operated on roadways, streets or parking lots provided for travel in said public park or playgrounds
 - (5) Creating, maintaining or permitting the maintenance of any of the following dangerous conditions, structures or premises:

- (a) Open wells or cisterns

- (b) Open excavations
 - (c) Unfinished buildings, foundations or other structures
 - (d) Buildings or structures damaged or partially destroyed by fire or otherwise, or in a state of disrepair or danger
 - (e) Dangerous placement of materials or equipment
 - (f) Lakes, ponds or swimming pools not properly safeguarded, and stagnant water in pools in which mosquitoes, flies or insects multiply
- (6) Carrying on construction work in such a manner that dirt and/or dust is carried by wind onto adjacent properties or that mud is tracked or drained into streets and/or sidewalks adjacent to the project
- (7) Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street or sidewalk without removing that material before 5:00 p.m. of the day on which it was deposited on the street. This provision shall not apply to the application by the Borough of Southmont or its designees of anti-skid, cinders, salt or other similar materials on any street or sidewalk relating to the removal of snow and/or ice
- (8) Using any property or operating any business or other activity which interferes with the normal use of adjacent properties or businesses by permitting or causing smoke, soot, cinders, fly ash, dust, mud, dirt, acid, noxious or offensive fumes, gases or odors to be discharged into the air, or to be carried off the premises; or causing any water to become polluted by sewage, industrial wastes, acid or other substances; or causing a glare from lights, or noise

2. The word "person" where used in this part shall mean any individual, person, firm, partnership or corporation, including all members of any association, all partners of any partnership and all officers of any corporation.

ARTICLE II: Unlawful To Create Or Maintain A Nuisance: It shall be unlawful for any person to create, continue, cause, maintain or permit to exist any nuisance at any

place within the Borough. This Ordinance shall apply to, but may not be limited to, any person that is an owner and/or an occupier of a property upon which a nuisance may exist.

ARTICLE III: Removal Or Abatement Of Nuisance: Any person who creates, continues, causes, maintains or permits to exist any nuisance at any place within the Borough shall, after reasonable notice from Council, or its agents, designees or police officers, to do so, remove or abate the nuisance. If that person shall fail, neglect or refuse to abate the nuisance within that time limit, Council, or its agents or police officers, shall have authority, in person or by its agents and/or employees, to remove or abate the nuisance and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, Council shall collect the cost and expense of the abatement or removal from the person who created, continued, caused or maintained the nuisance and/or permitted it to exist, and who had failed, neglected or refused to remove or abate the nuisance with an additional amount of ten percent (10%) in the manner provided for the collection of municipal claims, or by an action in assumpsit. That cost and expense may be in addition to any penalty imposed under Article IV.

ARTICLE IV: Penalty For Violation: Any person, firm or corporation who shall violate any provision of this Ordinance shall be guilty of a summary offense, and upon conviction thereof by the District Magistrate, be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) plus costs, including reasonable attorney's fees, and in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day's continuance of the maintenance of any nuisance, after the issuance of the notice referred to in Article III, shall constitute a separate violation.

ARTICLE V: Exceptions: This part shall not be construed to be the sole means for abatement of nuisances within the Borough, and nothing shall preclude any person from proceeding individually or with other injured persons to effect the abatement of a private nuisance. Furthermore, in the exercise of the powers conferred in this part, the Borough may institute proceedings in equity.

ARTICLE VI: Remedies Not Mutually Exclusive: The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Borough Council.

ARTICLE VII: Severability: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect the other provision or application of this Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

ARTICLE VIII: Repeater: All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

ARTICLE IX: Effective Date: This Ordinance shall become effective immediately and shall continue to be effective until specifically repealed.

ORDAINED and ENACTED this 21 st day of July, 2008.

ATTEST:

SOUTHMONT BOROUGH COUNCIL

Judith G. Cymrak

Richard L. Rodgers

Richard Rodgers, President

APPROVED this 21st day of July, 2008

By: Gerald Sloat

Gerald Sloat, Mayor