

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE TOWNSHIP OF BEDFORD, BEDFORD COUNTY, PENNSYLVANIA FOR THE PROTECTION OF THE PUBLIC HEALTH, AMENDING, REVISING AND REPEALING ORDINANCE NUMBER 2007-09 OF SUCH TOWNSHIP TO THE EXTENT IT IS INCONSISTENT HERewith: DEFINING NUISANCES AND DECLARING CERTAIN CONDITIONS, PLACES AND THINGS TO BE NUISANCES, AND PROHIBITING THE SAME, AND PROVIDING FOR THE ABATEMENT THEREOF, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, the Township of Bedford is empowered to prohibit nuisances and to provide penalties for the violation thereof (53 P.S. §66529, 66533 and 66601); and

WHEREAS, the Board of Supervisors of Bedford Township finds that it is in the best interests of health, welfare and safety of the Township and its citizenry to declare certain conditions, places and things to be nuisances, to define the same, and to provide for the abatement thereof, including penalties for violation of the regulations enacted by the Township with respect thereto; and

WHEREAS, the Board of Supervisors of Bedford Township deem it to be in the best interests and general welfare of the citizens and residents of this Township 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

WHEREAS, it is hereby expressly declared that it is not the purpose or intention of the Township, by this Ordinance, to discriminate against or in any way to impose undue hardship, upon any individual, group, company or other business entity of any type;

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of Bedford Township, Bedford County, Pennsylvania, and it is hereby ordained and enacted by authority of the same;

SECTION NO. 1: REPEALER

Ordinance Number 2007-09 is amended, revised, and repealed to the extent that it conflicts or is inconsistent with the terms of this Ordinance and is deemed to be repealed as of the effective date of this Ordinance.

SECTION NO. 2: TITLE.

This Ordinance shall be known as the "Bedford Township Nuisance Ordinance".

SECTION NO. 3: DEFINITIONS OF KEY TERMS.

For the purposes 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, words in the singular number shall include the plural number, pronouns in the masculine shall include the feminine, and pronouns in the feminine shall include the masculine.

1. "Board of Supervisors" is the Board of Supervisors of Bedford Township, Bedford County, Pennsylvania.
2. "Livestock" shall mean those classes of animals which are customarily kept and housed outside the home or in enclosures or pens, barns, corrals, or paddock areas. The term shall include but not be limited to horses, cattle (beef and dairy); llamas, alpacas, mules, swine, sheep, geese, ducks, guineas, chickens, and goats.
3. "Livestock structure" shall mean any structure related to the practice of keeping of livestock other than as part of a normal agricultural operation including, but not limited to, animal housing facilities, barns, stables, sheds, coops, cages, and similar structures, not including livestock enclosures.
4. "Normal Agricultural Operation" wherever used in said Ordinance and as defined in Pennsylvania's Right-to-Farm Act, 3 P.S. Section 952, shall be held and construed to mean and include the activities, practices, equipment, and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market of use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:
 - (1) not less than ten contiguous acres in area; or
 - (2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

Such term shall include new activities, practices, equipment and procedures consistent with the technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the Act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

5. "Owner" is a person owning, leasing, occupying or having charge of any premises, including but not limited to an unoccupied building as defined herein, within the Township.
6. "Person" wherever used in said Ordinance shall be held and construed to mean and include natural persons of either sex, firms, co-partnerships and corporations, and all associations of natural person, whether acting by themselves or by a servant or employee, or any organization of any kind.
7. "Township" is the Township of Bedford, which is located within the confines of Bedford County, Pennsylvania.
8. "Unoccupied Building" wherever used in said Ordinance shall be held and construed to mean and include any building, structure, house, or other edifice which is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing and safety codes of the Township and State of Pennsylvania; any building, structure, house or other edifice which is tax delinquent for a period of one year or has not been rehabilitated within one year of the receipt of notice to rehabilitate from the appropriate code enforcement agency; any building, structure, house or other edifice from which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that it is unfit for its intended use.
9. "Vegetation" is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.
10. "Abandoned or Junked Motor Vehicles" is any vehicle in non-serviceable condition or a vehicle without both a current inspection sticker and current registration plate and which is not surrounded on all four sides by a fence or other enclosure which is opaque in nature and the height of which exceeds the roof of the vehicle.
11. "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 animals knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.
12. "Ashes" shall mean any by-product of a carbon fuel source not properly disposed of and/or handled in accordance with applicable law, including but not limited to other Ordinances of this Township, which is permitted to infiltrate the air or water sources and/or flows or flies upon an adjoining property.

SECTION NO. 4: NUISANCE, GENERALLY DEFINED.

A nuisance consists in doing 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 others, or
2. Offends decency, or
3. Is offensive to the senses, or
4. Unlawfully interferes with, obstructs, or tends to obstruct, or render dangerous for passage any stream, public park, square, street or highway in the Township of Bedford, or
5. In any way renders other persons insecure in life or in the use of property, or
6. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

SECTION NO. 5: NUISANCE, SPECIFICALLY DEFINED.

The following specific acts, omissions, places, conditions and things, are hereby declared to be nuisances:

1. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected, or which are foul or malodorous;
2. Any abandoned or junked motor vehicle;
3. Filthy, littered or trash-covered cellars, houseyards, barnyards, stableyards, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings or premises;
4. Garbage, trash, litter, rags, accumulation of empty barrels, boxes, crates, packing cases, mattresses, bedding, tires, freezers, refrigerators, excelsior, scrap iron, tin and other metal not neatly piled;
5. Garbage and/or trash which is allowed to accumulate for more than fourteen (14) days;
6. Ashes as defined above;

7. Water which is draining or flowing, or allowed to drain or flow, by pipe to 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;
8. Burning of tires, tar products or garbage beyond that which is permitted by Bedford Township Ordinances or Federal or state law.
9. Snow which is pushed, shoveled or otherwise deposited upon the cartway or traveled portion of any public highway, road or street which is maintained by the Township or Commonwealth of Pennsylvania, and allowing the same to remain thereon;
10. Excavation materials which cause an 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;
11. Any loud noise, including but not limited to music of any manner including home stereos, bands, vehicular sound systems and portable "boom boxes", any drum or drums, any horn or horns, or any other unusual noise, disturbing the peace after 11:00 p.m. which can be heard a distance of 150 feet from its source or such person's property line or; for any person to make, continue or cause to be made or continued any unnecessary or unusually loud noise which annoys, disturbs, injures or endangers the comfort, health, safety or peace of others within and which can be heard a distance of one hundred and fifty (150) feet from its source or such person's property line between the hours of 11:00 p.m. and 7:00 a.m.;
12. Posted advertisements, including the posting, pasting, or fastening of any printed, painted or written signs, show bills, placards, circulars or advertisements of any description whatsoever upon any tree, telephone or electric light pole within the Township limits unless authorized by the Township Board of Supervisors;
13. Glass and sharp objects on streets, including but not limited to the placing, throwing or putting on any street, road, lane or alley of the Township any tacks, nails, sharp pieces of iron, glass bottles, briars, thorns or other dangerous and similar substances which may injure an animal or puncture a tire;
14. The emission of any offensive or foul odor, scent, effluvium, emanation or fume within the Township limits, except as normal and customary in farming activities;

15. For any person to throw, hurl or cast any metal, stone, snowball, bullet or other missile at any person or animal passing along or standing at any of the streets, roads, lanes, alleys or sidewalks of the Township;
16. For any person to own, keep or permit any domestic livestock or any dog or animal on or about his premises to disturb the peace and quiet of the day or night by barking, howling, crying or otherwise making a noise to the annoyance of the neighborhood which can be heard a distance of one hundred and fifty (150') feet from that person's property line;
17. It shall be unlawful for any person owning or possessing a dog to permit the same to run at large. "Running at large" shall be defined to be the presence of a dog at any place except upon the premises of another with the consent of the owner of such premises;
 - a. Provided that this Paragraph shall not apply to a "seeing eye dog" which is used to assist a person who is identified as legally blind, those animals under the control of law enforcement or a 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.
18. 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;
 - a. Provided that this Paragraph shall not apply to a "seeing eye dog" which is used to assist a person who is identified as legally blind, those animals under the control of law enforcement or a 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.
19. For anyone placing a vehicle or other obstruction on or along any street of the Township so as to interfere with vehicular or pedestrian traffic, unless it should become necessary to drive or place the vehicle in such position to load or unload merchandise or furniture, and then such vehicle shall only be permitted to remain for such lengths of time as is necessary to load or unload the same;

20. No person shall blast rock on or near any public street or alley within the Township without first having obtained permission from the Township Board of Supervisors, and after having obtained such permission, to blast under conditions and restrictions as set forth in the written consent of the Township Board of Supervisors;
21. No person or persons, excluding businesses dealing with such or using the same in the course of its businesses shall keep or store explosives within the Township, and no vehicles loaded with explosives shall be allowed to remain within the Township limits for a longer period than two (2) hours;
22. No person shall permit any animals including but not limited to any dogs, cats, cattle, horse, mule, sheep, goat, geese, ducks or swine to roam or be at large upon the streets, lanes or alleys in any of the inhabited parts of the Township;
23. Littering;
24. Animal manure which is not part of a Normal Agricultural Area as defined above; is in any quantity which is not protected from the elements; or which is kept or handled in violation of the PA Act 38 Nutrient Management Program;
25. Animal feces which is permitted to lie in public places, on sidewalks, and/or upon the property of another without being retrieved and properly disposed of;
26. Tin cans, bottles, glass, cans, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all such trash or abandoned material, unless the same be kept in covered bins, or galvanized iron receptacles, approved by the Health Officer;
27. Vegetation left to grow in excess of eight inches, with certain exceptions;
28. Unoccupied buildings as defined herein.
29. Smoke from an outdoor burning device which is uncontrolled, directed intentionally or recklessly towards a neighboring property, and which is not dissipated from a flue or pipe of a height required by applicable federal, state, and/or local law.
30. No person shall keep or permit to be kept on such person's property any livestock which is not part of a normal agricultural operation unless
 - a. All animals comply with all federal, state, and local regulations;

- b. Animal Equivalent Unit: Animal weights shall be calculated using the Standard Animal Weights listed in Pennsylvania's Act 38 Nutrient Management Program Technical Manual issued by the Pennsylvania State Conservation Commission;
- c. Density restrictions for keeping of such animals shall apply as follows:
 - 1. One (1) animal equivalent Unit, 1,000-pound live weight of any animal per 1,000 square feet of gross lot area exclusive of buildings and impervious surfaces up to a maximum of eight (8) animals per the Pennsylvania Act 38 Nutrient Management Program. Large animals including horses, cattle, sheep, pigs, goats, horses, donkeys, mules; and other animals such as buffalo, oxen, llamas, and camels. Small animals including chickens, fowl, game birds, rabbits, and any other animal which is by its size and/or nature of similar character to the aforementioned animals.
- d. All livestock shall be kept within a livestock enclosure at all times when such animals are not leashed, haltered, or bridled and under the direct control of the owner or an authorized agents of the owner thereof. The height of the fencing for such enclosure shall be sufficient to keep the livestock within the enclosure and be adequately constructed to prevent the livestock from escaping its confines. Livestock structures shall incorporate no less than three (3) walls and have sufficient roof area so as to provide a weather-proof shelter.
- e. Coops and hutches shall have a solid roof and vents to ensure adequate ventilation. Coops and hutches shall be predator proof and provide shelter from moisture and extreme temperatures. The minimum coop or hutch size shall be sufficient to permit free movement of the fowl or small animals. Coops and hutches shall also be constructed to prevent rodents from being harbored underneath or within the enclosure.
- f. Outside runs shall be enclosed to contain flow and small animals and be predator-proof.
- g. Keeping of livestock other than as part of a normal agricultural operation must meet the following with respect to manure management:

1. Comply with Pennsylvania's Nutrient Management Regulations as set forth in Chapter 83 of Title 25 of the Pennsylvania Code and required by the Pennsylvania Department of Environmental Protection.
 2. A minimum setback of one hundred (100) feet shall be provided for any area or structure used for storage of animal wastes from all property lines, wetlands, and waterways.
 3. All animal waste(s) shall be properly stored and disposed of so as not to be objectionable at the site's property line.
 4. All persons keeping such animal(s) shall be able to show upon inquiry by the Township or its agents or any other Federal, state, or local official that adequate provisions have or are being implemented to collect, store, and dispose of manure and other litter associated with the keeping of such animal(s) daily. All containers used in the process of manure management shall be kept covered and shall be cleaned on a weekly basis to avoid detectable odors or the potential thereof.
- h. Keeping of livestock other than as part of a normal agricultural operation must meet the following with respect to animal care:
1. Minimum standards of animal care as required under Chapter 55 of Title 18 of the Pennsylvania Code, particular Section 5511 thereof.
 2. Livestock structures shall be provided as a shelter for animal(s). the structure shall be of sufficient size to enable the animal(s) to comfortably stand, turn around, and lie down and shall be ventilated to avoid respiratory diseases and infections; control ambient temperature, and prevent accumulation of toxic gases.
 3. Livestock structures, coops, hutches, and outside runs shall be cleaned of droppings, uneaten food, feathers, and other waste on a regular basis and as necessary to ensure they do not become a health, odor, or other nuisance.
 4. Slaughtering of animals on the property must be conducted in a closed structure out of sight and not permitted to flow into any water sources.
 5. All areas shall be kept in a sanitary condition free from unpleasant odors and conditions contributing to the breeding of flies and rats.

6. Disposal of dead animals shall be in accordance with Pennsylvania's Domestic Animal Law, particularly Chapter 23, Section 2352, of Title 3 of the Pennsylvania Code. All dead animals shall be disposed of within forty-eight (48) hours after death.
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31. No person shall keep or permit to be kept on such person's property any exotic animals unless such person meets all requirements under Title 34 of the Pennsylvania Consolidated Statutes and supporting regulations, including but not limited to possession, licensing; permitting; housing; fencing; and record-keeping.
 32. Honeybee apiaries shall be permitted on properties within the Township, provided such apiaries are in compliance with Pennsylvania's Bee Law (3 Pa.C.S.A. Section 2101-2117) and are maintained subject to the following requirements:
 - a. Bee-keeping facilities shall be consistent with the Pennsylvania Department of Agriculture "Best Management Practices for Maintaining Honey Bee Colonies in the Commonwealth of Pennsylvania."
 - b. The apiary shall be properly registered with the Pennsylvania Department of Agriculture, Bureau of Plant Industry, pursuant to applicable state laws.
 - c. Ownership, care, and control of honeybees shall be the responsibility of a resident of the dwelling on the lot or the individual listed on the registration.
 - d. Location of an apiary shall be as follows:
 1. Apiaries are not permitted within twenty-five (25) feet of any lot line.
 2. The front of any apiary shall face away from the property line of the residential property closest to the hive.
 3. No apiary shall be kept in front or side yards which abut streets or public highways.
 - e. Flyway Barriers:
 1. For all colonies of bees located on a property, a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, or dense hedge parallel to the property line and extending at least ten (10) feet beyond the apiary in each direction is required and set back twenty-five (25) feet from any public or private property line.

2. A flyway barrier shall not be necessary, however, if the beehive is kept at least six (6) feet off of the ground.
- f. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.
 - g. Safety:
 1. In any instance in which a hive exhibits unusually aggressive characteristics, it shall be the duty of the beekeeper to destroy or re-queen the hive.
 2. Hives must be located within a secured area to protect the colony and prevent direct access by the public.

Any person or owner failing to meet these requirements with respect to honeybees, honeybee apiaries, or hives shall be deemed to have committed a nuisance hereunder.

33. Tree(s) located within the Township road right-of-way which are diseased, damaged, or leaning and in danger of falling and/or causing harm. Such trees must be removed by the property owner within thirty (30) days of notification thereof from the Township.

SECTION NO. 6: NUISANCES PROHIBITED.

It shall be unlawful for any person to erect, contrive, cause, suffer, permit, continue or maintain a nuisance as herein defined or prohibited.

SECTION NO. 7: UNOCCUPIED BUILDINGS.

Every agent or owner of any unoccupied building in the Township of Bedford shall keep the same securely closed at all times against persons who may enter and commit a nuisance therein.

SECTION NO. 8: ENTERING UNOCCUPIED BUILDINGS.

It shall be unlawful for any person to enter any unoccupied building and commit a nuisance therein.

SECTION NO. 9: SUCCESSIVE OWNERS.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property caused by the former owner is liable therefor in the same manner as the owner who created it.

SECTION NO 10: WRITTEN NOTICE REQUIRED.

Whenever a condition constituting a Nuisance as defined herein is found to exist, the Board of Supervisors shall cause written notice to be served upon the owner in one of the following manners:

1. By fixing a copy of the notice to the door at the entrance of the premises in violation; or
2. By mailing a copy of the notice to the last known address of the owner by certified mail; or
3. By making personal delivery of the notice to the owners; or
4. 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

SECTION NO. 11: PENALTIES.

Any person who shall violate any of the provisions of this Ordinance shall be guilty of an Offense., the criminal fine for which shall be not less than Five Hundred (\$500.00) Dollars nor greater than One Thousand (\$1,000.00) Dollars per violation, plus the costs of prosecution including but not limited to attorney's fees in relation thereto, 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.

The Township shall initiate an enforcement proceeding by an action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person found to be in violation hereof shall, in addition to an Order of the Court, be responsible for reimbursing the Township for all attorney's fees, costs, and expenses incurred by the Township in connection therewith.

The municipal 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 in summary cases).

This Ordinance may also be enforced by the Township through an action in equity brought in the Court of Common Pleas of the county where the Township is situated.

SECTION NO. 12: ABATEMENT OF NUISANCE.

Wherever a nuisance exists as defined in this Ordinance, the Township's Board of Supervisors may require the owner of the public or private grounds on which the nuisance exists to remove the nuisance or dangerous structure from the public or private grounds. After ten (10) days notice from the Township to the owner to remove any nuisance or dangerous structure on public or private grounds and upon the owners failure to do so, the Board of Supervisors may remove the nuisance or structure and collect the cost of the removal, together with the penalty of two hundred (\$200.00) dollars from the owner by summary proceedings or under law for the collection of municipal liens and attorney's fees incurred in connection therewith.

SECTION NO. 13: PAYMENT OF FINES AND PENALTIES.

All fines and penalties collected for the violation of this Ordinance shall be paid over to the Township's Treasurer.

SECTION NO. 14: SEPARATE OFFENSES.

Each day's continuance of anything prohibited by this Ordinance shall be a separate offense hereunder.

SECTION NO. 15: SEVERABILITY CLAUSE.


If any section or provision of this Ordinance shall be held void or unconstitutional, all other sections and all other provisions of the Ordinance which are not so held void or unconstitutional shall continue in full force and effect.

SECTION NO. 16: EFFECTIVE DATE.

The effective date of this Ordinance shall be within five (5) days of its passage.

ORDAINED AND ENACTED as an Ordinance of Bedford Township this 5 day
of NOVEMBER, 2020.

ATTESTED:


Janie L. McMillen, Secretary

BEDFORD TOWNSHIP
BOARD OF SUPERVISORS


Gregory L. Crist, Chairman


Dean Shuller, Vice Chairman


Ricky P. Fetter, Supervisor