

**FELTON BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2023-01

**AN ORDINANCE OF FELTON BOROUGH, YORK COUNTY, PENNSYLVANIA,
DEFINING, PROHIBITING, AND PROVIDING PENALTIES FOR NUISANCES.**

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

SECTION 1: Short Title. This Ordinance shall be known as, and may be cited to as, the “Felton Borough Nuisance Ordinance.”

SECTION 2: Purpose and Intent. It shall be the declared policy of this Ordinance:

- A. To protect the public against the unlawful activities, behavior, and conduct that constitute Nuisances as defined by this Ordinance.
- B. To protect and preserve local residents’ use and enjoyment of their Property from trespass by the activities, behavior, and conduct classified as Nuisances.
- C. To protect citizens of the Borough from the health, safety, and financial risks associated with the activities, behavior, and conduct classified as Nuisances.

SECTION 3: Authority. The provisions of this Ordinance are enacted pursuant to the power vested in the Borough by 8 Pa. C.S.A. §1202, which specifically authorizes the Borough to prohibit and remove any Nuisance or dangerous structure on Public or Private Property.

SECTION 4: Applicability. The provisions of this Ordinance shall apply to all Property within the Borough.

SECTION 5: Definitions.

- A. The phrase “Approved Vegetation,” as used in this Ordinance, shall mean vegetation that is edible or planted for some useful, legal, or ornamental purpose, and grass and weeds that are not to exceed the height of six (6) inches. Approved Vegetation specifically excludes those noxious weeds that are prohibited by any Borough ordinance regulating the growth of weeds, grass, or similar vegetation, as may be in effect from time to time, including but not limited to, cannabis sativa (Marijuana), cirsium arvense (Canadian Thistle), rosa multiflora (Multiflora Rose), sorghum halepense (Johnson Grass), polygonum perfoliatum (Mile-a-Minute), pueraria lobate (Kudzu-vine), cirsium vulgare (Bull/Spear Thistle), carduus nutans (Musk/Nodding

Thistle), sorghum bicolor (Shattercane), datura stramonium (Jimsonwee), lyrthrum slicaria (Purple Loosestrife), heracleum mantegazzianum (Giant Hogweed), and galga officinalis (Goatsrue).

- B. The word "Borough," as used in this Ordinance, shall mean Felton Borough, York County, Pennsylvania.
- C. The phrase "Consumer Fireworks," as used in this Ordinance shall mean any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this Commonwealth. The term does not include devices such as "ground and hand-held sparkling devices", "novelties" or "toy caps" in APA 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.
- D. The word "Nuisance," as used in this Ordinance, shall mean 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 reasonable rights as a Person or in the reasonable use of his Private Property.
- E. The word "Ordinance," as used in this Ordinance, shall mean the provisions set forth in this Ordinance which together work to define Nuisances, specify violations, and outline the enforcement of Nuisances in the Borough.
- F. The word "Person," as used in this Ordinance, shall mean any individual, firm, partnership, association, company, corporation, club, society, organization, or other legally recognized entity.
- G. The phrase "Private Property," as used in this Ordinance, shall mean any Property held by private interests which is used primarily for business, commercial, retail, office space, business park, religious, recreational, multifamily, or single-family dwelling purposes. This shall also include the sidewalks contained within the Private Property, parking lots, alleys, and parking facilities for these Private Property areas.
- H. The word "Property," as used in this Ordinance, shall mean any plot, tract, or parcel of land, with or without improvements thereto, owned or occupied within the Borough.
- I. The phrase "Public Property," as used in this Ordinance, shall mean any Property owned or maintained by the Borough, or any other public entity or public utility

within the boundaries of the Borough, including public streets, highways, roads, sidewalks, alleys, trails, parks, playgrounds, public buildings, or lots.

- J. The phrase “Recreational Vehicle,” as used in this Ordinance, shall mean a motor home, camper, travel trailer, or any other vehicle that is intended to be lived in.
- K. The phrase “Sound-Producing Technology,” as used in this Ordinance, shall mean technology capable of emitting and/or amplifying sound, such as a radio, stereo, amplifier, speaker (to include portable, Bluetooth speakers), television set, or other such sound devices.

SECTION 6: Interpretation. Unless otherwise expressly stated, this Ordinance shall be interpreted in the following manner:

- A. Words used in the present tense imply the future tense.
- B. Words used in the singular imply the plural.
- C. The word “shall” or “must” is to be interpreted as mandatory; the word “may” is directory and complied with unless waived.
- D. A pronoun in the masculine gender shall be considered as including the feminine gender or neutral gender.

SECTION 7: Nuisances Generally. It shall be unlawful for any Person to create, continue, cause, maintain, or permit to exist any Nuisance on any Property that the Person may own, occupy, or otherwise control within the Borough, including, but not limited to, the following:

- A. Any unreasonable noise or discomfort experienced by a Person beyond the boundaries of the Property from which the noise or discomfort originates;
- B. Interference with the health or safety of a Person beyond the boundaries of the Property, or a Person that might be reasonably expected to enter upon the Property, from which the interference originates; or
- C. Disturbance to, or interference with, the peaceful use of Property of others within the Borough, taking into consideration the location of the use, as well as the nature and condition of the surrounding area.

SECTION 8: Specific Conduct Constituting Nuisance. While not intended to be an exhaustive list, the following activities, conduct, and behavior constitute a Nuisance in the Borough:

- A. Permitting the growth of weeds or other vegetation that is not Approved Vegetation.
- B. Using a skateboard, kick scooter, rollerblades, roller-skates, bicycle, electric skateboard, electric scooter, hover board, or other similar means of human

locomotion upon any public thoroughfare, street, or sidewalk in the Borough between sunset and sunrise on any day, or at any other time involving insufficient light or unfavorable atmospheric conditions, without using lighting equipment or reflective clothing that allows the rider to be discernible from a distance of one hundred (100) feet.

- C. Permitting a minor child to remain in or upon any public place in violation of any Borough ordinance establishing curfew requirements for certain minors, as may be in effect from time to time.
- D. Inducing or permitting, either by action or inaction, the infestation of real estate and the structures thereon, or any part thereof, by insects, vermin, rodents, or other animals. As used in this provision, inaction refers to the failure of an owner of Property to employ those methods of extermination, removal, and prevention that comply with generally accepted practices, including but not limited to, proper screening and refuse control.
- E. Owning or possessing any animal that makes noises in a manner that violates any Borough ordinance regulating the control of barking dogs and excessive noise of other animals, as may be in effect from time to time.
- F. Permitting a dog, cat, or other pet to run at large at any time upon Property other than the Property of the owner, custodian, or keeper of said animal in a manner that violates any Borough ordinance prohibiting the running at large of animals, as may be in effect from time to time.
- G. Fireworks or Other Pyrotechnics:
 - (1) within one hundred and fifty (150') feet of any building or vehicle (regardless of whether the building or vehicle is owned by the user of the Consumer Fireworks),
 - (2) between the hours of 10:00 p.m. and 10:00 a.m. (except as otherwise specifically allowed by state law),
 - (3) in a manner that violates any other applicable law, or
 - (4) in a manner that violates any Borough Ordinance or directive thereunder regulating open burning, as may be in effect from time to time.
- H. Using Sound-Producing Technology, on Private Property, in a manner that causes the sound to be heard beyond the Property from which the sound originated

- I. Using Sound-Producing Technology, on Public Property to which the public has a right to access, in a manner that infringes on the rights of others to mutually use and enjoy the Public Property.
- J. Maintaining, or permitting the maintenance of, any of the following dangerous conditions, structures, or premises, without proper safeguards:
 - (1) open wells or cisterns;
 - (2) open excavations;
 - (3) unfinished buildings, foundations, or other structures;
 - (4) buildings or structures damaged, partially destroyed, or in a state of disrepair or danger;
 - (5) dangerous placement or storage of vehicles, materials, or equipment;
 - (6) lakes, ponds, or swimming pools not properly safeguarded; or
 - (7) stagnant water in pools in which mosquitoes, flies, or insects multiply.

As used in this provision, safeguards refer to those protective measures that must be taken to prevent undesirable occurrences, which may include but need not be limited to, warning signs, markers, fencing, treatments, aerations, and other similar precautions.

- K. Performing any building or road construction, excavation, or trenching, or the operation of heavy equipment or trucks in connection with these activities, at any time between 7:00 p.m. and 7:00 a.m., without a special permit issued by the Borough. The special permit shall be issued only if it is shown that the construction work must proceed as a matter of emergency or that it can be carried on in a manner or in such place that the public or residents will not be annoyed or disturbed by such construction work.
- L. Performing construction work in a manner that causes dirt or mud to be blown, tracked, drained, or otherwise transferred onto Property adjacent to the construction.
- M. Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the materials before sunset of the day on which the material was deposited.
- N. Using any Property, operating any business, or conducting any other activity so as to permit or cause:

- (1) dust, mud, dirt, acid, noxious or offensive fumes, gases or odors to be discharged into the air, or to be carried off the Property upon which it has been created;
 - (2) any water to become polluted by sewage, industrial wastes, acid, or other substance; or
 - (3) a glare from lights.
- O. Storing or accumulating garbage, ashes, or rubbish in a manner that violates any Borough ordinance regulating refuse, as may be in effect from time to time.
- P. Burning tires, tar products, or garbage in a manner that violates any Borough ordinance regulating open burning, as may be in effect from time to time.
- Q. Emptying dumpsters or other trash containers before 7:00 a.m., with the exception of residential trash pickup conducted by the entity authorized by the Borough pursuant to the Borough's Solid Waste and Recycling contract, as may be in effect from time to time.
- R. Allowing the occupation of a Recreational Vehicle on Private Property by Persons that do not own the Property for more than fourteen (14) days per calendar year.
- S. Connecting a Recreational Vehicle to the Borough's sewer system.
- T. Storing a vehicle, equipment, or any other object on a Property's setback area or within an intersection's clear sight triangles. However, short term parking of a licensed, titled vehicle within a setback area may be permitted, provided that it shall not create a hazard for those rightfully utilizing the adjacent roadway.
- U. Parking or storing on any street all of the following for a period longer than ten (10) days:
- (1) any motor vehicle, or the parts thereof, which is not in running condition, and which is left or stored in the open;
 - (2) any motor vehicle, or the parts thereof, which has been voluntarily relinquished by its owner, with the intention of terminating ownership, possession, and control and without resting ownership in any other Person;
 - (3) any motor vehicle disabled by reason of an accident;
 - (4) any motor vehicle that is unlicensed or inoperable on Public Property; or

- (5) any storage container, dumpster, or unattached trailer.
- V. Operating gasoline-powered lawn mowers, chain saws, and similar motorized devices or equipment before 6:00 a.m. and after 10:00 p.m. on any day, or before 9:00 a.m. on Sunday and Holidays. This provision shall not apply to the use of snow blowers, snow plows or other snow removal equipment, when being used to remove snow.
- W. Operating vehicles including, but not limited to, all-terrain vehicles (ATVs), snowmobiles, dirt bikes, motorcycles, or any illegal street vehicle on a Property
 - (1) before 7:00 a.m. and after 10:00 p.m. on any day, or before 9:00 a.m. on Sundays and Holidays, in a manner that is heard beyond the boundaries of the Property; or
 - (2) in a manner that annoys or disturbs a reasonable Person of normal sensitivities.
- X. Causing, permitting, or allowing any alarm, located in a motor vehicle registered in the name of or operated by such Person, to emit any audible sound in the Borough for a period of more than fifteen (15) minutes. The time shall be calculated based upon the emission of the first audible sound and ending 15 minutes thereafter.

SECTION 9: Enforcement.

- A. **Procedures.** The Borough may initiate enforcement proceedings through the issuance of a notice of violation to any Person in violation of this Ordinance's provisions, pursuant to Section 10 of this Ordinance. The Borough reserves its right, pursuant to 8 Pa. C.S.A. § 3321, to immediately levy a fine or to initiate the summary proceedings outlined in Section 11 of this Ordinance at its discretion.
- B. **Enforcing Officers.** Unless otherwise noted, the provisions of this Ordinance shall be enforced by any Police Officer having jurisdiction within the Borough, the Borough Zoning Officer, the Borough Permit Officer, the Borough Solicitor, and any other Felton Borough official duly appointed and authorized from time to time by the Felton Borough Council.
- C. **Fine Range.** The Borough's enforcing officers may prescribe a fine of no less than Fifty Dollars (\$50.00) and no more than One Thousand Dollars (\$1,000.00) per violation, as well as up to ninety (90) days imprisonment. Each day of a violation, as well as each violation of one of this Ordinance's provisions, constitutes a separate violation for which a fine may be levied.
- D. **Assessment of Fines.** When imposing a fine for a violation of this Ordinance, the Borough's enforcing officers will consider the following factors in assessing the appropriate amount:

- (1) the fiscal expenditure required to remedy the effects of the violation;
 - (2) the severity of harm caused by this violation to a reasonable person;
 - (3) whether the Person violating this Ordinance was on constructive notice of this violation;
 - (4) whether the Person violating this Ordinance has been found guilty of actions, behavior, or conduct constituting a Nuisance within the Borough prior to the current violation; and
 - (5) any other conditions or circumstances relating to the Nuisance that may be relevant in determining the appropriate fine.
- E. **Recovery of Expenses.** The Borough shall be entitled to recover all expenses incurred in the enforcement of this Ordinance, including but not limited to reasonable attorneys' fees, administrative fees, and court costs associated with the enforcement of this Ordinance.
- F. **Dual Enforcement.** Any action, behavior, or conduct that violates both this Ordinance and another ordinance of the Borough may be subject to the enforcement provisions of this Ordinance, or to the enforcement provisions of the other ordinance, but in any event, never both.
- G. **Civil Enforcement.** The Borough Council may, in addition to or in lieu of criminal enforcement, enforce this Ordinance by a complaint in equity in the York County Court of Common Pleas. The Borough Council may file for an injunction, which requires the Person to comply with the terms of the notice of violation, or seek any such other relief as any such court of competent jurisdiction is empowered to afford.
- H. **Removal.** The Borough Council may, at its discretion, cause the removal of a Nuisance itself and collect all of the costs of removal, together with a penalty of ten percent (10%) of the costs, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or by bill for relief in equity. The Borough shall certify the costs of any expense associated with the removal, repair, or alteration of a Nuisance with the Borough Solicitor. These costs shall become a lien upon this Property, commencing on the date upon which removal, repair, or alteration efforts began. This date shall be certified by the Person doing such work, and the lien shall be filed with the Prothonotary and Borough Secretary.

SECTION 10: Notice of Violation.

- A. **Notice of Violation.** In the event that any provision of this Ordinance is violated, the Borough Council may, at its discretion, serve or cause to be served, a notice of violation to the Person determined to have violated this Ordinance. This notice of violation may be issued immediately upon discovery of a violation, or at a later time, at the sole discretion of the issuing officer authorized to enforce the provisions of this Ordinance.

- B. Contents of Notice.** A notice of violation shall set forth:
- (1) a factual description of the Nuisance that would enable the Person who received the notice to discern what activities, behavior, or conduct are being referenced;
 - (2) a citation to the relevant section/subsection of this Ordinance that is being violated;
 - (3) a demand that the Nuisance be immediately abated, or in the alternative, the date upon which the Nuisance must be remedied, but in no event exceeding twenty (20) days following the receipt of the notice; and
 - (4) the date of the notice's issuance.
- C. Service of Notice.** Notice shall be served on the Person in one of the following manners:
- (1) By making personal delivery of the notice on the Person;
 - (2) By handing a copy of the notice at the residence of the Person to an adult member of the family with which the Person resides, but if no adult family member is found, then to an adult Person in charge of such residence;
 - (3) By fixing a copy of the notice to the door at the entrance of the Property in violation; or
 - (4) By mailing a copy of the notice to the last known address of the Person by certified mail.
- D. Compliance.** The recipient of such notice shall comply fully with the terms of the notice, with all materials to be supplied and work to be done at the Person's expense. If the Borough Council, or its authorized agent, determines that a violation of this Ordinance constitutes an emergency, requiring immediate corrective measures, then such notice shall require the Person to immediately comply with the terms of the notice.
- E. Subsequent Violations.** No Person shall be entitled to written notice for any subsequent violation of the same provision of this Ordinance that occurs within 365 days of the first notice. The first notice shall be deemed to be ongoing for any violations within that time period, and the Borough may proceed immediately with enforcement.

SECTION 11: Summary Proceedings. If the Borough Council determines not to provide a notice of violation, or the Person receiving the notice of violation fails to fully comply with the terms stated therein, enforcement of this Ordinance shall be as follows:

- A. **Summary Offense.** Enforcement shall be by a criminal action in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough's Solicitor is statutorily permitted to, and may choose to, assume charge of the prosecution without the consent of the district attorney.
- B. **Citation.** Summary proceedings shall be initiated by issuance or filing of a citation that comports with the requirements of Pennsylvania Rule of Criminal Procedure 403. A citation may be issued immediately upon discovery of a violation, or at a later time, at the sole discretion of the issuing officer authorized to enforce the provisions of this Ordinance.

SECTION 12: Repealer. All prior ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

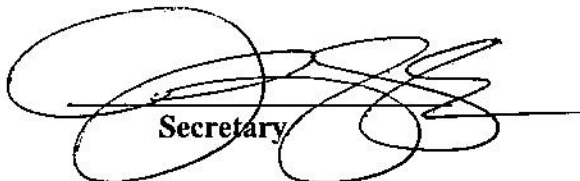
SECTION 13: Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 14: Effective Date. This Ordinance shall become effective five days after the date of its enactment as provided by law.

ENACTED AND ORDAINED this 1st day of May, 2023, by the Borough Council of the Borough of Felton, York County, Pennsylvania, in lawful session, duly assembled.

ATTEST:

**BOROUGH OF FELTON
YORK COUNTY, PENNSYLVANIA**


Secretary

By: Mary Leale
Vice President of Council

APPROVED this 1st day of May, 2023.


Mayor