

**FELTON BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2011-02

**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: PURPOSE AND INTENT.

- A. To protect the public against the unlawful activities, behavior and conduct herein defined, which constitutes a Nuisance.
- B. To protect the local residents use and enjoyment of their property against trespassing by the activities, conduct and behavior classified as Nuisances.
- C. To protect the people against the health and safety menace and the expense incident to the activities, behavior and conduct herein classified as Nuisances.

SECTION 2: DEFINITIONS.

The word "Nuisance", as used in this Ordinance, shall mean any use of property within Felton Borough, or any condition upon property within Felton Borough that causes or results in:

- (1) A noise or discomfort to persons beyond the boundaries of that property;
- (2) Interference with the health or safety of persons beyond the boundaries of that property or persons that might reasonably be expected to enter upon or be on that property; or
- (3) Disturbance to or interference with the peaceful use of the property of others within the Borough, in any case taking into consideration the location of the use, and the nature and condition of the surrounding neighborhood.

Additionally, and for purposes of this Ordinance, the word "Nuisance" shall also include, but not be limited to, the following:

1. Loud playing of radios, television sets, amplifiers or other sound devices so as to be heard beyond the property from which the same shall emanate.
2. Operation of gasoline – powered lawn mowers, chain saws, and other motorized devices or equipment before 9:00 a.m. on Sunday and Holidays, and 7:30 a.m. on any other day.
3. Maintaining or permitting the maintenance of any of the following dangerous conditions, structures, or premises, without proper safeguards:
 - a. open wells or cisterns;
 - b. open excavations;
 - c. unfinished buildings, foundations or other structures;
 - d. buildings or structures damaged or partially destroyed or in a state of disrepair or danger;
 - e. dangerous placement or storage of vehicles, materials or equipment;
 - f. lakes, ponds or swimming pools not properly safeguarded;
 - g. stagnant water in pools in which mosquitoes, flies or insects multiply.
4. Carrying on 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.
5. Carrying on construction work in such a manner that dirt is carried by wind onto adjacent properties or that mud is tracked or drained into streets adjacent to the project.
6. Washing, tracking or otherwise depositing dirt, mud, soil, stone or debris upon or onto the pavement of any street, without removing the materials before 5:00 p.m. of the day on which the material was deposited.
7. Using any property or operating any business or other activity so as to permit or cause:
 - a. 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,

b. any water to become polluted by sewage, industrial wastes, acid or other substance,

c. a glare from lights,

d. noise of such character as to cause annoyance to residents or interference with the normal use of adjacent properties.

8. Storing or accumulating garbage or rubbish in a fashion that is not in compliance with Felton Borough Ordinance No. 1973-1, as amended.

9. Burning of tires, tar products, or garbage.

10. The emptying of dumpsters or other trash containers before 7:00 a.m.

For purposes of this Ordinance, the term Person shall include any individual, partnership, company, corporation, or other legally recognized entity.

SECTION 3: NUISANCES PROHIBITED.

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.

SECTION 4: NOTICE OF VIOLATION.

A. It shall be the duty of Borough Council to serve or cause to be served a notice upon any Person who is in violation of the provisions of this Ordinance and to require the Person to commence action in accordance with the terms of the Notice within the time stated therein, but in no event later than ten (10) days following receipt. The Person 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. However, if any violations of this Ordinance constitute an emergency in that the circumstances require immediate corrective measures, then such notice shall so require and the Person shall immediately comply with the terms of the notice.

Notice shall be served on the Person in one of the following manners:

1. By making personal delivery of the notice to the Person; or
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 member of the family is found, then to an adult Person in charge of such residence; or
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.

B. The Person shall not be entitled to written notice pursuant to this Section for any subsequent or similar violations of this Ordinance that occur 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 5: PENALTIES. Enforcement of this Ordinance shall be as follows:

A. Enforcement thereof shall be by an action before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa. R.Crim.P. No. 454 (relating to trial and summary cases). The Borough Council hereby sets a criminal fine of no less than One Hundred Dollars (\$100.00) and no more than Five Hundred Dollars (\$500.00) per violation, the costs of prosecution, including attorneys' fees, and the costs of any removal, repair or alteration as described below in Paragraph B, and, in default of payment of such fine and costs, to undergo imprisonment of not more than ten (10) days.

B. The Borough Council may direct the removal, repair, or alteration of any Nuisance as defined herein, as the case may be, to be done by the Borough and to certify the costs thereof to the Borough Solicitor, and the cost of such removal, repairs or alterations shall be a lien upon such Property from the time of such removal, cutting, repairs and/or alterations which date shall be determined by the certificate of the Person doing such work, and filed with the Borough Secretary.

C. The Borough, by means of a complaint in equity, may compel the Person to comply with the terms of any notice of violation or seek any such other relief as any such court of competent jurisdiction is empowered to afford.

D. Each day's continuance of a violation of any provision of this Ordinance shall constitute a separate offense.

SECTION 6: ENFORCEMENT. The provisions of this Ordinance shall be enforced by the Felton Borough Zoning Officer, Felton Borough Permit Officer, and any other Felton Borough official appointed from time to time by the Felton Borough Council, and any Police Officer having jurisdiction within Felton Borough.

SECTION 7: REPEALER. All prior ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 8: 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

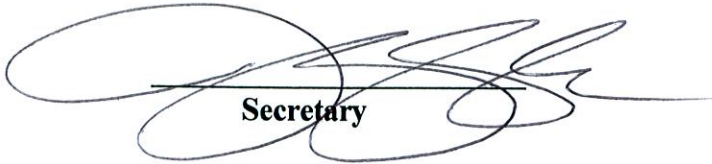
Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 9: 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 August, 2011, by the Borough Council of the Borough of Felton, in lawful session, duly assembled.

ATTEST:

**BOROUGH OF FELTON
YORK COUNTY, PENNSYLVANIA**


Secretary

By: 
President

APPROVED this 1st day of August, 2011.


Mayor

