

ORDINANCE NO. 6 of 2019

AN ORDINANCE REPEALING THE CURRENT CHAPTER 63 OF THE BUTLER TOWNSHIP CODE IN ITS ENTIRETY AND ENACTING A NEW ORDINANCE REGARDING NUISANCES WITHIN BUTLER TOWNSHIP AND PROVIDING FOR THE ENFORCEMENT OF THE ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF

WHEREAS, Section 66529 of the Township Code, 53 P.S. §66529 permits the Township to prohibit any nuisance; and

WHEREAS, Section 66533 of the Township Code, 53 P.S. §66533, allows the Township to make regulations as may be necessary to require owners to remove any nuisance or dangerous structures on public or private grounds; and

WHEREAS, the same section allows the Township to remove the nuisance or structure and collect the cost of the removal, together with a penalty; and

WHEREAS, the Township Supervisors of the Butler Township, Adams County, Pennsylvania, deems it to be in the best interest and general welfare of the citizens and residents of the Township to amend Chapter 63 in its entirety regulating nuisances within the Township and providing for the enforcement of the Ordinance and penalties for the violation thereof.

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Township Council of the Butler Township, Adams County, Pennsylvania, and it is enacted and ordained as follows:

SECTION 1: Chapter 63 of the Butler Township Code, Adams County, is hereby repealed in its entirety.

SECTION 2: The following text shall be hereinafter referred to as Chapter 63 of the Butler Township Code:

I. Definitions.

For the purpose 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 tense, words in the plural include the singular, and words in the singular include the plural.

APPLIANCE – A stove, refrigerator, television set, furnace, air conditioner, water heater, water softener, washer, dryer, microwave or any household article used to perform any of the necessary domestic work in a household. The term appliance shall also mean any article

used in business to increase production or to speed, ease, or eliminate work, including but not limited to the specific items aforementioned.

ATTRACTIVE NUISANCE – A nuisance that is dangerous or hazardous to young children because of their inability to appreciate peril and may reasonably be expected to attract them to personal or real property.

TOWNSHIP – The Butler Township, Pennsylvania.

TOWNSHIP COUNCIL – The Township Council of the Butler Township, Pennsylvania.

DANGEROUS STRUCTURE – Any building or structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health of persons residing in the vicinity thereof, or is in a condition that presents a fire hazard.

DISCARDED – Any item resting for forty-eight (48) hours outdoors, or in an area that is not fully enclosed, which is not designed for outdoor use or which is not being used outdoors for its intended purpose.

HOUSEHOLD FURNISHINGS – All items normally found and used in a home or residence.

JUNKED – Inoperable, obsolete, or abandoned items that are, being stripped of components, being used or sold for parts, to be sold for scrap, or not being used for their intended purpose.

NUISANCE – The unreasonable, unwarranted, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance, or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of person or property including, but not limited to:

- A. The presence of junk, trash or debris including but not limited to all waste, refuse and discarded materials having only a junk or salvage value, and garbage or waste not contained in a safe sanitary and orderly manner in a proper container for collection.
- B. The presence of abandoned, discarded or unused: equipment, appliances, household furnishings, or other objects.
- C. Maintaining or causing to be maintained upon any unenclosed porch or exterior attachment, furniture, other than furniture designed for exterior use, which is commonly intended for use inside a dwelling including but not limited to upholstered sofas, chairs, davenports, beds, divans and similar items.

- D. Maintaining or allowing any dangerous structures, including but not limited to abandoned, occupied, or unoccupied buildings or parts of buildings.
- E. Maintaining or allowing any building to be unsecured.
- F. Trees, shrubs, hedges or other vegetation overhanging sidewalks or other pedestrian walkways at a height less than eight (8') feet.
- G. Trees, shrubs, or other vegetation overhanging a road right-of-way at a height of less than sixteen (16') feet measured from the street surface at the curb.
- H. Garbage, garbage containers, trash, recycle containers or yard waste containers, placed in the public right-of-way except for the twenty-four (24) hours immediately prior to the regularly scheduled collection of trash. However, in the event that a property Owner, whose garbage collection occurs at the street frontage, does not have access to the rear yard of the property by any means other than through the interior of the structure on the property, the property Owner may make application to the Township Manager or his designee for an exemption from the requirement, that garbage containers remain out of the public right-of-way. An exemption shall only be granted if the property Owner is able to ensure that: (1) the placement of the garbage container will not obstruct a clear path of no less than four feet, (2) the garbage container will not be placed in the cartway, and (3) the garbage container will be covered tightly with a lid at all times and will remain in good condition.

Under no circumstance shall loose or bagged trash be permitted in the public right of way or front yard of a property except for the twenty-four (24) hours immediately prior to the regularly scheduled collection of trash.

- I. Maintaining or allowing the improper disposal of sewage and wastewater in a manner that does not conform to local ordinance or regulation, or state or federal law.
- J. Maintaining or allowing more than one (1) unregistered or uninspected motor vehicle(s) on a lot, subject to one or more of the following defects:
 - 1. Broken windshields, mirrors or other glass with sharp edges.
 - 2. One or more flat or open tires or tubes that could permit infestation.
 - 3. Missing doors, windows, hoods, trunks, or other body parts which could facilitate the harboring of animals and/or other infestation.
 - 4. Any body parts with sharp edges, including holes resulting from rust.
 - 5. Missing tires resulting in unsafe suspension of the motor vehicle.

6. Upholstery that is torn or open which could permit the harboring of animals and/or other infestation.
 7. Broken headlamps or tail lamps with sharp edges.
 8. Disassembled chassis parts apart from the motor vehicle stored in an unsafe fashion or loose, in or on the vehicle.
 9. Protruding sharp objects from the chassis.
 10. Broken vehicle frames suspended from the ground in an unstable manner.
 11. Leaking or damaged oil pan or gas tank that could cause fire or explosion.
 12. Exposed battery containing acid.
 13. Inoperable locking mechanism for doors or trunk or hood.
 14. Open or damaged floorboards, including trunk and firewall.
 15. Damaged bumpers pulled away from the perimeter of vehicle.
 16. Broken grill with protruding edges.
 17. Loose or damaged metal trim and clips; broken communications equipment and antenna.
 18. Suspended on unstable supports.
 19. Such other defects that may threaten the health, safety and welfare of the citizens of the Township.
- K. The emission of noxious fumes, gas, smoke, ashes, or soot in such quantities as to render occupancy of property dangerous to a person of ordinary sensibilities.
- L. The accumulation of, or improper disposal of animal waste.
- M. All disagreeable and obnoxious odors or stenches, as well as the conditions which give rise to the omission or generation of said odor and stenches.
- N. The improper disposal of the carcasses of animal or fowl.
- O. Dead or dying trees or other vegetation that may cause a hazardous situation if they fall.
- P. Any accumulation of stagnant water.
- Q. An attractive nuisance.

OWNER – Any individual, firm, corporation, trust, association, partnership, or other legal entity which alone, or jointly or severally with others, holds legal or equitable title to the Rental unit (the plural use indicates each and every Owner).

PERSON – A natural person, firm, partnership, company, association, trust, corporation, or other legal entity. The singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter, whatever appropriate.

PORCH or EXTERIOR ATTACHMENT – Any area attached to or appended to a building regularly used for dwelling.

SECTION 3: Nuisances prohibited.

It shall be unlawful for any person to create, maintain or allow any condition which is a nuisance.

SECTION 4: Scrap Materials.

It is further declared unlawful to store, accumulate or keep outdoors on any property (unless fully enclosed within a building) within the limits of the Township any scrap material of any kind, any scrapped or used appliances, fixtures, automobile parts, household furnishings, machinery, and machinery parts or other similar material or any other form of discarded or unused or unusable materials (including but not limited to building materials) which by their appearance are unsightly.

SECTION 5: Abatement.

- A. Abatement of nuisance by Owner, occupant, or person responsible. Whenever a nuisance is found to exist the Owner or occupant of the property upon which such nuisance exists or the person causing or maintaining the nuisance shall be provided with written notice as provided for herein to abate the nuisance. The nuisance shall be abated by the Owner, occupant, or person causing the nuisance, as applicable, within the time required in the notice.
- B. Abatement of nuisance by Township. In the event the Owner, occupant, or person causing the nuisance, as applicable, shall fail to abate said nuisance, the Township shall take such actions as it deems necessary to abate said nuisance without liability for damage that may result from the abatement. The actual costs of abating said nuisance, including but not limited to actual labor charges, equipment, rental charges, administrative overhead, postage, plus a penalty of ten (10%) percent of the costs and attorney's fees, shall be collected from the Owner of the property either by an action in assumpsit or by the filing of a municipal claim or lien against the said real property. In addition to the above, the Township may, at its sole discretion, by an

action in equity, compel the Owner to comply with this Ordinance or seek other relief as a court may order.

SECTION 6: Enforcement; Compliance.

- A. Whenever a condition constituting a nuisance is permitted or maintained in the Township, the Township Manager or the Code Enforcement Official shall cause written notice to be served in one of the following manners:
 - 1. By personal delivery of the notice to the Owner, occupant, or person causing the nuisance, as applicable;
 - 2. By leaving the notice with an adult upon real property upon which a nuisance exists;
 - 3. By posting a copy of the notice on a door at the entrance of any building and/or structure located on real property upon which a nuisance exists; or
 - 4. By mailing by certified mail, a notice to the last known address of an Owner, occupant, or person causing the nuisance, as applicable.

- B. Such notice shall be in writing and include the following:
 - 1. A description of the real property sufficient for identification, upon which the nuisance exists.
 - 2. A statement of the condition or conditions that constitute a nuisance and why the notice is being issued.
 - 3. A correction order allowing a reasonable time to abate the nuisance
 - 4. A statement informing the Owner, occupant, or person causing a nuisance that if it becomes necessary for the Township to abate the nuisance, the Township may file a municipal lien against the applicable real property in accordance with the Municipal Claims Act, 53 P.S. §7101 *et seq.*

- C. Notwithstanding the foregoing, if the violator has not abated or removed the nuisance within the time period for the removal set forth in the notice, the Code Enforcement Official or Township Secretary may initiate proceedings against such violator in the office of the appropriate magisterial district justice. The Code Enforcement Official or his designee(s) are hereby duly authorized to issue a ticket in a form established by the Township to any Owner, occupant, or person causing a nuisance, as applicable, violating the provisions of this Ordinance. The ticket shall identify the address of the property where the violation exists, as well as the nature of the violation. The ticket may either be handed to an Owner or occupant of the property or may be affixed to a door on the property where the violation exists fronting a right-of-way or conspicuously posted on the property. The ticket shall instruct the violator that if the violator reports to the Township Office and pays to the Township the sum of \$100.00 within ten (10) days of the date

of issuance of the ticket, then such payment shall save such violator from prosecution by a citation, which prosecution may result in court costs and attorney fees being assessed against the violator in addition to the fine. In any event, if a ticket is not paid in full within ten (10) days of issuance, the code official or his designee(s) may issue a citation to the violator. Notwithstanding the foregoing, the code official or his designee(s) shall have the sole and absolute discretion to issue a citation without first issuing a ticket as provided for herein.

SECTION 7: Violations and penalties.

- A. Any person violating any provision of this Ordinance shall upon conviction thereof be sentenced to pay a fine of not less than \$500 nor more than \$1,000 for each violation plus costs of prosecution, including but not limited to reasonable attorney fees and restitution (in the event that the Township has abated the nuisance), or upon default of payment of fines, costs and/or restitution, by imprisonment for a period not to exceed ten (10) days.
- B. Each day shall constitute a new and separate violation of this Ordinance.

SECTION 8: Remedies; Not Mutually Exclusive.

The remedies provided herein for the enforcement of this Ordinance and/or any other remedy, at law and/or in equity, available to the Township under the laws of the Commonwealth of Pennsylvania shall not be deemed mutually exclusive but rather each remedy may be employed simultaneously or consecutively at the sole discretion of the Township.

SECTION 9: Repealer.

All provisions of previous ordinances of the Butler Township, which are contrary to this ordinance, are expressly repealed.

SECTION 10: Savings Clause.

In all other respects, the ordinances of the Butler Township shall remain as previously enacted and ordained.

SECTION 11: Severability.

The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provision shall not affect or impair any remaining sections, clauses or sentences of the same.

SECTION 12: Effective Date.


This ordinance shall become effective upon adoption.

ENACTED, ORDAINED AND APPROVED this 8th day of April, 2019.

**BUTLER TOWNSHIP BOARD
OF SUPERVISORS**

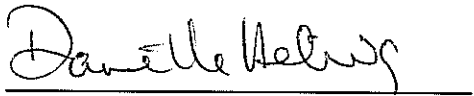


Douglas L. Bower, Chair

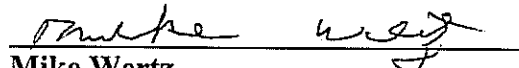


Doug Whitworth, Vice Chairman

Attest:



Secretary to Board of Supervisors



Mike Wertz