

ORDINANCE 2008-08

**AN ORDINANCE OF BETHEL TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA
ESTABLISHING MINIMUM HEALTH AND
SAFETY REQUIREMENTS FOR BUILDINGS,
STRUCTURES AND/OR PROPERTIES
WHICH ARE USED OR ASSOCIATED WITH
HUMAN OCCUPANCY, PROVIDING FOR
INSPECTIONS, ESTABLISHING
PROCEDURES FOR COMPLIANCE AND
PENALTIES FOR VIOLATION THEREOF**

WHEREAS, pursuant to Section 1506 of the Second Class Township Code, Bethel Township (the Township) has the power and duty to further the protection of the public and the health, safety, and welfare of the Community;

WHEREAS, the Board of Supervisors of Bethel Township recognize that there is a need within the Township to establish minimum health and safety requirements for properties, buildings, and structures;

WHEREAS the uses of property that: 1) fail to maintain buildings or structures, 2) dispose of human, animal, and other wastes employing safe, sanitary, and appropriate methods, 3) accumulate municipal and household waste, and 4) create, allow, or fail to remedy dangerous or unsanitary conditions, can be harmful to other residents; and,

WHEREAS buildings or structures, that become damaged or uninhabitable for any reason and properties which are permitted to be occupied or used in ways that may be harmful to surrounding inhabitants threaten the health and safety of all residents if landowners fail to secure, clean up or otherwise remove unsafe structures and/or accumulated waste and/or materials;

WHEREAS, the Board of Supervisors desires to establish standards which it considers to be fair and effective in meeting the minimum health and safety requirements;

NOW THEREFORE, in consideration of the above recitals which are all incorporated herein by reference, the Township hereby ENACTS and ORDAINS as follows:

Section 1. Short Title

This Ordinance shall be known and cited as the Bethel Township Unsafe Property and Structure Ordinance.

Section 2. Definitions

When used in this ordinance, the following words have the meaning shown.

Building: Any structure having or designed to have a roof, and enclosed by one or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals.

Court: An open and unoccupied space on a lot enclosed on at least three (3) sides by the walls of a building.

Garbage: Putrescible animal and/or vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Infestation: The congregation and/or accumulation of insects, rodents, vermin, and/or other pests.

Lot: Any plot, tracts, premises or parcel of land, with or without improvements thereto.

Owner: Any person and/or entity or combination of persons and/or entities of any kind that holds any legal and/or equitable claim to ownership of any Lot or Property. Owner also includes any and all tenants, lessees, licensees, occupiers or possessors of any Lot or Property that has or claims any right to occupy or possess the same. Owner also includes any fiduciaries, trustees, and executors of Owners or Tenants as well as all Mortgagees who have exercised any right to assignment of rents, who are in possession, or who have obtained judgment in foreclosure.

Property: Includes any Lot, tract or parcel of land, whether or not improved.

Refuse: Putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

Structural Hazard: Any building or part thereof, or man made structure in any one or more of the following conditions: a) unoccupied and unsecure with doors or windows open, broken, or removed; b) damaged by fire, the elements, earthquake or other cause and which is not promptly removed, repaired, and/or secured to prevent entry, occupancy, and/or infestation; c) unoccupied and upon which an infestation exists; d) structurally unsound and/or in danger of collapse for any reason or cause, or e) any building or structure under construction where progress on completion has ceased for a period of 90 consecutive days

Yard: Any open space on the same lot with a building and, for the most part unobstructed from the ground up.

Section 3. Application.

The provisions of this Ordinance shall supplement other applicable local laws, ordinances or regulations existing in the Township or those of the Commonwealth of Pennsylvania. Where a provision of this Ordinance is found to be in conflict with any other applicable provision of a local law, ordinance, code or regulations or those of the Commonwealth of Pennsylvania, the ordinance which establishes the higher standard shall apply.

Section 4. Buildings and Structures.

1. All Owners shall maintain their Property and all Buildings and Structures on the same as may be required from time to time, to ensure the Property is safe, sound, sanitary, and secure and does not expose any occupant, or person to any health and/or safety hazard including surrounding properties and to the general populace.

2. All Owners of any Building or Structure that is not regularly and currently occupied shall take such steps as may be required to insure that all buildings and structures are securely closed so as to prevent and deter entry, prevent and deter, infestation, and prevent and deter deterioration.

3. All Owners of any Building or Structure that deteriorates or is damaged by any cause or reason including neglect, the elements, fire, earthquake or other cause and which creates a condition of a Structural Hazard, shall be in violation of this Ordinance. Upon the failure of the Owner to promptly remedy the condition described, the Board of Supervisors shall be authorized to take such action necessary to abate the condition which may include entry upon the Property, removal of the Building or Structure at the Owner's expense and such other action reasonably deemed necessary to protect the health, safety and general welfare of the citizens of the Township.

4. No Owner shall allow any Structural Hazard to exist or be maintained on any Property within Bethel Township

Section 5. Property

a) Yards, Open Lots, Parking Areas. No person shall permit or maintain:

1. Any fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property;

2. The development of accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots;

3. Objectionable materials to accumulate and be blown about the surrounding neighborhood;

4. The accumulation of heavy undergrowth and/or vegetation which directly create an undue risk of infestation, or affect the health and/or safety of persons on adjoining or nearby properties;

5. Any trees, plants or shrubbery, or any portion thereof, to grow on their property which constitutes a safety hazard to pedestrian and/or vehicular traffic.

b) Infestation, Prevention and Correction. Owners of Properties Shall:

1. Maintain all Lots, Grounds, Buildings, and Structures free of insect, vermin and rodent harborage and infestation or conditions that attract or cause the same;

2. Maintain adequate sanitary facilities and methods for the prompt collection, handling, removal, and disposal of Garbage and Refuse in accordance with State and local codes and accepted practices;

3. Promptly remediate conditions where there exists rodent and vermin infestation, to eliminate such conditions and the causes of the same.

c) Miscellaneous Provisions. No person shall permit or maintain:

1. Drainage from any roof, surface, storm water and/or sanitary drainage that creates any danger or hazard to any persons or Property or risks safety and/or health hazards to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge;

2. Roof gutters, drains, or any other system designed and constructed to transport stormwater to be discharged into any sanitary sewage system and/or any part thereof;

3) Any refrigerator, freezer and/or other similar storage chest to be discarded, abandoned on any Lot or Property, or stored in any place or location which is accessible to the public without first completely removing any and all locking devices and/or doors;

4) Accumulate, store, maintain or otherwise allow the accumulation of Municipal waste, Garbage, Refuse, or similar material except for such limited storage of the same awaiting prompt removal by licensed companies or personnel.

Section 6. Nuisance

Properties, Buildings, Structures, and/or Lots existing, maintained or permitted to exist in violation of Sections 4 and 5 of this Ordinance are hereby declared to be a Public Nuisance and all Owners or Occupiers of such Properties allowing, maintaining or permitting the same shall be subject to the provisions hereof.

Section 7. Responsible Persons

a) Responsibilities of Occupants. Any occupant of a premises shall be responsible for compliance with the provisions of this Ordinance with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof.

b) Responsibilities of Owners.

1. Owner of premises shall comply with the provisions of this Ordinance as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

2. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one (1) or more violations of this Ordinance, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of this Ordinance.

Section 8. Inspections and right of Entry

The Board of Supervisors may, or may cause, through an authorized representative of the Township, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Township for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, the Township will provide advance notice to the Owner. In the event access is denied after request, the Township shall have the right to proceed in court to gain access for the purpose of investigation, inspection, and enforcement.

Section 9. Procedure

a) Notice to Comply. If any Property, Building or Structure is in violation of the terms of this Ordinance, The Township shall give notice to the Owner and/or Occupant. Notice may be served by ordinary mail, certified mail, personal service and/or posting upon the Property at a conspicuous location and any other form of notice approved by the Court. In those circumstances where the nature of the condition and the hazard is so immediate, the Township may issue notice contemporaneously with remedial action. However, in the ordinary case, the Township shall give the Owner and/or occupier 20 days advance notice. The notice shall contain a description of the violation with reasonable particularity and state the action to be taken to abate the violation.

b) Authority to Remedy Noncompliance. If the Owner and/or Occupant do not comply with the notice to abate the conditions, within the time limit prescribed, the Township shall have the power but not the obligation to take all steps necessary to abate the violation at the Owner's expense plus all legal fees and administrative costs incurred by the Township in doing so.

c) Violations In accordance with article XVI section 1601 (b) of the Pennsylvania Second Class Township Code, all violations of the provisions of this ordinance shall be a summary offense, punishable by a fine in the amount of One Thousand Dollars (\$1,000.00) for each offense. The fine shall be in addition to any and all costs incurred and reimbursed to the Township in the event the Township must remedy the violation. The fine shall commence on the 21st day after notice is issued by the Township. Each day thereafter that the violation remains shall be considered a separate offense. The Court, may, in its discretion also impose imprisonment for each violation according to law.

d) Nothing in this Ordinance shall prevent the Township from pursuing such other rights and remedies at law or in equity that may be available to abate any nuisance, including but not limited to seeking and obtaining injunctive relief.

Section 10. Authorized Officers

The Township code enforcement officer, the Township zoning officer and the Bethel Township Police, any one or more of them are all expressly authorized to enforce the terms of this Ordinance.

Section 11. Joint and Several Liability

All Owners and responsible occupiers shall be jointly and severally liable for violations of the terms of this Ordinance.

Section 12. Severability

In the event that any provision, section, sentence, clause or portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any of the remaining Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Bethel Township that the remainder of this Ordinance shall be and remain in full force and effect notwithstanding the fact that such portion thereof shall be invalid or unconstitutional.

Section 13. Repealer

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 14. Effective Date

This Ordinance shall take effect five (5) days subsequent to its passage.

ORDAINED and ENACTED as an Ordinance of Bethel Township, Berks County, Pennsylvania, in lawful session duly assembled this 28 day of October, 2008.

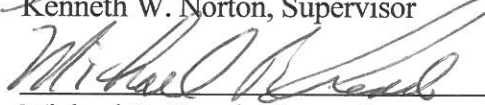
BOARD OF SUPERVISORS
BETHEL TOWNSHIP



Randall G. Haag, Chairman




Kenneth W. Norton, Supervisor



Michael R. Orendo, Supervisor

Attest:



Jayne K. Seifrit, Township Secretary