

**TOWNSHIP OF HAMILTON  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE**

No. **21-039**

1ST READING	<u>July 20, 2021</u>	DATE TO MAYOR	_____
2ND READING & PUBLIC HEARING	<u>Aug. 17, 2021</u>	DATE RESUBMITTED TO COUNCIL	_____
WITHDRAWN _____	LOST _____	DATE EFFECTIVE	_____

APPROVED AS TO FORM AND LEGALITY

FACTUAL CONTENTS CERTIFIED TO BY

\_\_\_\_\_  
TOWNSHIP ATTORNEY

\_\_\_\_\_  
TITLE

**ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, PART II, GENERAL LEGISLATION, CHAPTER 317, NUISANCES, AND REPEALING THE PREVIOUS CHAPTER 317 IN ITS ENTIRETY**

*Be It Ordained* by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of the Township of Hamilton, New Jersey, Part II, General Legislation, Chapter 317, Nuisances*, as amended and supplemented, be further amended and supplemented to include the following:

Section 1. Chapter 317, NUISANCES, be and hereby is deleted in its entirety and replaced with the following:

**Chapter 317**

**NUISANCES**

**ARTICLE I. SCOPE**

**§ 317-1. Scope.**

An ordinance defining and prohibiting certain matters, things, conditions or acts and each of them as a nuisance, authorizing the inspection of premises by an enforcing official, providing for removal or abatement of certain nuisances and recovery of expenses incurred by the Township in removing or abating such nuisances, and prescribing penalties for violations.

**ARTICLE II. DEFINITIONS**

**§ 317-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**ABANDONED VEHICLE**

Includes any motor vehicle, automobile, omnibus, road tractor, trailer, truck, truck trailer and vehicle which:

1. Has been continuously parked on any public street for a period of seven days; or
2. Is so disabled as to constitute an obstruction to traffic, and the driver or person owning or in charge thereof neglects or refuses to move same to a place where it

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will not obstruct traffic; or

3. Is found to be mechanically inoperative and is allowed to remain inoperative for a period of seven days; or
4. Is parked for any period of time without the current year's registration, license plates, or inspection markers as required by law.

**ANIMAL CONTROL OFFICER ("ACO"):**

As defined in N.J.S.A. 4:19-15.1 et seq. as same may be amended.

**COMMUNITY CAT**

As defined in Chapter § 108-1.

**DANGEROUS FIREWORKS**

As defined in N.J.S.A. 21:2-3 as same may be amended.

**ENFORCING OFFICIALS**

Includes the Health Officer or other officials authorized by the Division of Health to enforce the provisions of this chapter.

**FEED**

To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

**FIREWORKS**

As defined in N.J.S.A. 21:2-2 as same may be amended.

**HABITUALLY**

As defined in Chapter § 108-1.

**HYMENOPTERA**

Hymenoptera is a large order of insects, comprising the sawflies, hornets, wasps, bees, and ants including both solitary and social species and characterized by sucking and chewing mouthparts for gathering nectar and pollen.

**NUISANCE**

Any matter, thing, condition, circumstance causing inconvenience or annoyance and injurious to the health of the inhabitants of this municipality.

**PERSON**

Includes an individual, firm, corporation, association, society, partnership, and their agents and/or employees.

**POLLUTANT**

As defined in N.J.S.A. 7:14A-1 as same may be amended.

**SPARKLING DEVICES AND NOVELTIES**

As defined in N.J.S.A. 21:2-2 as same may be amended.

**WILDLIFE**

All animals that are neither human nor domesticated.

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**ARTICLE III. NUISANCE**

**§ 317-3. Pollutant.**

It shall be unlawful for any person to commit, maintain or allow pollutant(s) or existence of a condition or conditions which cause or threaten to cause pollutant(s) to enter any waters, soil or air in this municipality in such manner as to cause or threaten to cause injury to any of the inhabitants of this municipality either in health, comfort or property and therefore such actions shall be declared a nuisance.

**§ 317-4. Overgrowth.**

- A. It shall be unlawful for any person to maintain or allow the growth, existence or presence of ragweed on any plot of land, lot, highway, right-of-way, any other public or private place or premises or impede other safe passage along roads and public rights of way in this municipality in such manner as to cause or threaten to cause injury, such actions shall be declared a nuisance and detrimental to public health.
- B. It shall be unlawful for any person to maintain or allow the growth, existence or presence of poison ivy within 20 feet of any property line or plot of land, lot, highway, right-of-way, any other public or private place or premises or impede other safe passage along roads and public rights of way in this municipality in such manner as to cause or threaten to cause injury, such actions shall be declared a nuisance and detrimental to public health.
- C. It shall be unlawful for any person to maintain or allow the overgrowth, existence or presence of any vegetation on any plot of land, lot, highway, right-of-way, any other public or private place or premises or impede other safe passage along roads and public rights of way in this municipality in such manner as to cause or threaten to cause injury, such actions shall be declared a nuisance and detrimental to public health.

**§ 317-5. Standing Water.**

It shall be unlawful for any person to create, maintain or allow any existence or presence of any water or other liquid in which mosquito larvae can breed or exist on any property in the township; such actions shall be declared a nuisance and detrimental to public health.

**§ 317-6. Waste.**

It shall be unlawful for any person to commit, maintain or allow the existence or presence of any accumulation of garbage, refuse, manure, or animal or vegetable matter which may attract flies and to which flies may have access, or in which fly larvae or pupae breed or exist; such actions shall be declared a nuisance and detrimental to public health.

**§ 317-7. Food.**

It shall be unlawful for any person to deposit, accumulate, or maintain any matter or thing which serves as food for insects, rodents and/or wildlife and to which they may have access or which serves or constitutes a breeding place or harborage for insects, rodents and/or wildlife in or on any land, premises, building or other place; such actions shall be declared a nuisance and detrimental to public health.

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**§ 317-8. Hymenoptera.**

It shall be unlawful for any person to possess or maintain without a permit any insects of the Hymenoptera order that interfere with the normal use of private or public property or have shown unusually aggressive behavior toward a person or animal; such possession or maintenance shall be declared a nuisance and detrimental to public health.

**§ 317-9. Abandoned Vehicle.**

No person shall abandon or permit the abandonment on public or private property within the Township, or on any public street, of any motor vehicles owned by them or under their control or in their possession at the time of the abandonment, or cause any abandoned vehicles or vehicles in a state of substantial disrepair to be stored in the open, provided that motor vehicles in a temporary state of disrepair shall be allowed to remain for a period not exceeding 10 days, provided that the same are not abandoned vehicles as defined in this section. The abandoning of a vehicle per this ordinance shall be declared a nuisance.

**§ 317-10. Wildlife on Publicly Owned Property.**

It shall be unlawful for any person to feed, in any public park or on any other property owned or operated by the Township, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers). The feeding of wildlife on property owned by the Township shall be declared a nuisance.

**§ 317-11. Creation of nuisance on public property or property of another.**

No person owning, harboring, keeping or in charge of any dog, cat or other animal shall cause, suffer or allow such dog, cat or other animal to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area or park, or any other place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of the property.

**§ 317-12. Animal Remains.**

It shall be unlawful for any person to participate in or allow the disinterment or removal of animal remains buried in land used or intended to be used for the burial of the remains of pet animals and dedicated for such purpose; such actions shall be declared a nuisance and detrimental to public health.

**§ 317-13. Community Cats.**

- A. A community cat shall be deemed a nuisance if it disturbs the peace by habitually howling, squawking, crying or screaming.
- B. A community cat shall be deemed a nuisance if it desecrates or soils property against the wishes of the property owner, creates conditions leading to the excessive breeding of fleas or flies, and/or odors and/or or noises.
- C. A community cat shall be considered a nuisance if it habitually trespasses upon or damages either private or public property or annoys or harms lawful users or occupants thereof.

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**§ 317-14. Seizure of nuisance animals; notice to owner.**

- A. The person designated by the Health Officer of the Township Division of Health to enforce the provisions of this article shall, upon receipt of a complaint that an animal is a public nuisance, seize the animal or trap it in a humane-type trap for trapping animals alive and keep it in their care and custody for a period of seven days from the date of apprehension as per N.J.S.A. 4:19-15.16(d) as same may be amended.
- B. If any animal so apprehended bears any identification of ownership, the enforcement officer shall, on the day of apprehension, notify the owner that the animal has been apprehended and that it may be claimed at a designated location subject to the provisions of this article.

**§ 317-15. Fireworks; Exclusions.**

- A. It shall be unlawful for any person to discharge any fireworks and/or dangerous fireworks in the municipality on private property, or any property owned or operated by the Township. Discharge of said defined fireworks and/or dangerous fireworks any time of day or night shall be declared a nuisance.
- B. Exclusions.
- (1) The use of sparking devices and/or novelties.
- (2) The public fireworks display's conducted by a licensed professional firework company upon authorizing Resolution by Township Council permitting and approved by the State of New Jersey, Department of Community Affairs, Division of Fire Safety.

**§ 317-16. Inspection of premises.**

- A. All places and premises in this municipality shall be subject to inspection by the Division of Health or an enforcing official, if the Division or that official has reason to believe that any section of this chapter is being violated.
- B. It shall be unlawful for any person to hinder, obstruct, delay, resist or prevent the Division of Health or an enforcing official from having full access to any place or premises upon which violation of this chapter is believed to exist.

**§ 317-17. Abatement of nuisances.**

- A. Whenever a nuisance, as declared by this chapter, is found on any plot of land, lot, right-of-way, or other private premises or place, notice in writing shall be given to the owner thereof to remove or abate the same within such time as shall be specified therein. The notice shall be sent by regular mail and certified mail, return receipt requested, directed to the last known address of the owner, tenant or occupant in possession of the lands, and may be served upon the owner, tenant or occupant personally, or by leaving it at their usual place of abode. If the owner resides out of state or cannot be notified speedily, such notice shall be left at the place or premises with the tenant or occupant thereof, or posted on the premises and such action shall be considered proper notification to the owner, tenant or occupant thereof.

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- B. Whenever a nuisance, as declared by this chapter, is found on any public property or on any highway or other public place or premises, notice in writing shall be given to the person responsible to remove or abate same within such time as shall be specified therein. The notice shall be sent by regular mail and certified mail, return receipt requested, directed to the last known address of the person responsible and may be served upon the person in charge personally, or by leaving it at their usual place of business. If such person fails to comply with such notice within the time specified therein, the Township may remove or abate such nuisance in the manner as hereinafter provided in the case of a like condition existing on a private place or premises.
- C. If the owner, tenant or occupant, upon being notified as provided by the chapter, shall not comply with such notice within the time specified therein and fails to remove or abate such nuisance, the Township shall proceed to abate the nuisance or may cause it to be removed or abated in a summary manner by such means as the Township shall deem proper.

**§ 317-18. Recovery of costs.**

- A. If the owner, tenant or person in possession of the lands in question shall refuse or neglect to abate or remedy the condition complained of within such time as specified therein pursuant to this chapter, the enforcing official shall issue a summons to the owner, tenant or person in possession for violation of this chapter and/or shall cause the condition complained of to be abated and remedied by the Department of Public Works, which shall certify the cost thereof to the Department of Finance, who shall cause the cost as shown thereon to be charged against the lands. The amount so charged shall forthwith become a lien upon the such lands and shall be added to become and form part of the taxes next to be assessed and levied upon such lands, and such amount shall bear interest at the same rate as taxes, and shall be collected and enforced by the same official and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this chapter.
- B. When the owner, tenant or person in possession of the property in question or person having possession or control of the abandoned vehicle has failed to remove same after being sent or provided with the notice described in § 317-17, then the enforcing official shall be authorized to arrange for the prompt removal of the vehicle. The owner or tenant or person having possession or control of the abandoned vehicle shall pay and be responsible for all towing and removal costs, including reasonable overhead, incurred by the Township in effecting such removal.

**§ 317-19. Enforcement.**

The provisions of this chapter shall be enforced by the Division of Health or other enforcing officials within the Township.

**§ 317-20. Violations and penalties.**

Any person who violates any of the provisions of this chapter shall, upon conviction, be subject to the penalties in Chapter 1, General Provisions, § 1-2, Violations; penalties, of the Township Code, per violation.

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Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
MUNICIPAL CLERK

**RECORD OF VOTE**

First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
ANTHONY P. CARABELLI, JR.				✓			ANTHONY P. CARABELLI, JR.						
RICHARD L. TIGHE, JR.	✓					✓	RICHARD L. TIGHE, JR.						
CHARLES F. WHALEN	✓				✓		CHARLES F. WHALEN						
NANCY PHILLIPS	✓						NANCY PHILLIPS						
PASQUALE "PAT" PAPERIO, JR.	✓						PASQUALE "PAT" PAPERIO, JR.						

X - Indicates Vote    A.B. - Absent    N.V. - Not Voting    ORD. - Moved    SEC. - Seconded

REJECTED \_\_\_\_\_

\_\_\_\_\_  
JEFFREY S. MARTIN, MAYOR

\_\_\_\_\_  
DATE

APPROVED \_\_\_\_\_

RECONSIDERED BY COUNCIL \_\_\_\_\_

\_\_\_\_\_  
OVERRIDE VOTE

AYE \_\_\_\_\_

NAY \_\_\_\_\_

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