

ORDINANCE NO. 2021-03

AN ORDINANCE OF BUCKINGHAM TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA, BEING AN OMNIBUS AMENDMENT OF THE BUCKINGHAM TOWNSHIP ZONING ORDINANCE, AMENDING CERTAIN PROVISIONS OF ARTICLE 4, USE REGULATIONS, ARTICLE 30, GENERAL REGULATIONS APPLICABLE TO ALL DISTRICTS AND USES, AND ARTICLE 31, NATURAL RESOURCE STANDARDS, SITE CAPACITY CALCULATIONS, OPEN SPACE STANDARDS, BUFFERS, ALL OF WHICH SAID AMENDMENTS RELATE TO THE PROVISIONS OF THE BUCKINGHAM TOWNSHIP ZONING ORDINANCE, AS AMENDED.

WHEREAS, Section 605 of the Pennsylvania Municipalities Planning Code (“MPC”) provides for additional classification of uses to be permitted within a zoning district for places at or near the boundaries of Districts, for the purpose of regulating nonconforming uses and structures and for the regulation of uses or structures along or near major thoroughfares and their intersections; and

WHEREAS, the Buckingham Township Board of Supervisors adopted the Buckingham Township Zoning Ordinance of 1975, which said Ordinance has been amended from time to time; and

WHEREAS, the Buckingham Township Board of Supervisors has determined that it is in the best interests of the Township and its residents that the provisions of the Buckingham Township Zoning Ordinance be further amended as hereinafter set forth.

NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of Buckingham Township, after public hearing duly advertised and held on the 22nd day of September, 2021, as follows:

The Buckingham Township Zoning Ordinance of 1975 as amended to January 24, 2018 is hereby further amended as set forth below:

I. **Article IV:**

1. The provisions of Article 4 Use Regulations, Section 405, Subsection B2 Townhouse and Twins, Subsection C. Off-Street Parking Requirements, are amended with respect to Parking Spaces Required to provide as follows:

“C. Off-Street Parking Requirements:

1. Minimum number of spaces: Two (2) off-street spaces for each dwelling unit, in addition to any spaces contained within a structure.
2. An additional one (1) space per dwelling unit of overflow off-street parking shall be required.”

2. The provisions of Article 4 Use Regulations, Section 405, Subsection B3 Apartment, Duplex or Multi-Family, Subsection C. Off-Street Parking Requirements, are amended with respect to Parking Spaces Required to provide as follows:

“C. Off-Street Parking Requirements:

1. Minimum number of spaces: Two (2) off-street spaces for each dwelling unit, in addition to any spaces contained within a structure.
2. An additional one (1) space per dwelling unit of overflow off-street parking shall be required.”

3. The provisions of Article 4 Use Regulations, Section 405, Subsection B8 Patio Zero Lot Line Dwelling, Subsection A. Off-Street Parking Requirements, are amended with respect to Parking Spaces Required to provide as follows:

“A. Off-Street Parking Requirements:

1. Minimum number of spaces: Two (2) off-street spaces for each dwelling unit, in addition to any spaces contained within a structure.
2. An additional one (1) space per dwelling unit of overflow off-street parking shall be required.”

4. The provisions of Article 4 Use Regulations, Section 405, Subsection B10 Residential Accessory Building, Structure, or Use, Subsection E Accessory In-Law Dwellings, are amended so as to renumber existing subparagraphs 6 through 11 as paragraphs 9 through 14, revise subparagraph 5 and insert new subparagraphs 6, 7 and 8 as follows:

“5. An Accessory In-Law Dwelling shall only be occupied by a family member of one or more of the occupants of the principal residence, not including occupants that are domestic servants or gratuitous guests. For purposes of this subsection, “family member” shall mean a person related by the first degree of affinity to an occupant of the principal residence or by the first to third degree of consanguinity by blood, adoption or marriage.

(i) The first-degree of consanguinity includes an individual's parents, siblings, and children.

(ii) The second-degree of consanguinity includes an individual's grandparents, grandchildren, uncles, aunts, nephews, nieces, and half-siblings.

(iii) The third-degree of consanguinity includes an individual's great-grandparents, great grandchildren, great uncles/aunts, and first cousins.

6. Proof that the occupant will be such a family member shall be required before any permit is issued to allow the Accessory In-Law Dwelling.

7. Under no circumstances may the Accessory In-Law Dwelling ever be rented to or otherwise occupied by a non-family member. Any violation of this restriction shall subject the occupants of the principal residence and the occupant of the Accessory In-Law Dwelling to, *inter alia*, the penalties and remedies of Article 38 of this Ordinance, those of Article VI Zoning of the Pennsylvania Municipalities Planning Code

and Article XVI of the Pennsylvania Second Class Township Code.

8. It shall be a violation of this section to advertise or otherwise offer an Accessory In-Law Dwelling for rent or lease or to describe in any offer of sale or advertisement thereof of the principal residence that the Accessory In-Law Dwelling may be rented or occupied by other than a family member of one or more of the occupants of the principal residence as above set forth.”

5. The provisions of Article 4 Use Regulations, Section 405, Subsection B10 Residential Accessory Building, Structure, or Use, Subsection G. Non-Commercial Swimming Pool, are amended to revise subparagraph 3. And to add a new subparagraph 9. to provide as follows:

“3. A fence for outdoor pools shall be provided complying with the International Swimming Pool and Spa Code of 2015 or such later Code as may be adopted by the Pennsylvania Department of Labor (e.g., 34 Pa. Code § 403.26). If any fence for this purpose is not located upon the property of the swimming pool owner, then prior to the issuance of any permit for the swimming pool, an agreement between the property owners specifically setting forth whose responsibility it is to maintain the fence, in a form recordable with the Bucks County Recorder of Deeds and effective for such time as the pool is in existence, shall be provided to the Township.

* * *

9. In the event of a conflict between this Section 405, Subsection B10 Residential Accessory Building, Structure, or Use, Subsection G, and the “International Swimming Pool and Spa Code of 2015 or such later Code as may be adopted by the Pennsylvania Department of Labor, the ‘International Swimming Pool and Spa Code as adopted by the Pennsylvania Department of Labor shall prevail.”

6. The provisions of Article 4 Use Regulations, Section 405, Subsection B10 Residential Accessory Building, Structure, or Use, Subsection H., Spas or Hot Tubs, are amended to replace subparagraphs 1. through 4. With the following:

- “1. The spa shall be located either entirely within the house or if located outside, shall be located on a deck or patio and shall either be: (i) covered with a lockable safety cover that complies with ASTM F1346 or, (ii) enclosed or fenced in accordance with the “International Swimming Pool and Spa Code of 2015 or such later Code as may be adopted by the Pennsylvania Department of Labor (e.g., 34 Pa. Code § 403.26).” If any fence for this purpose is not located upon the property of the spa owner, then prior to the issuance of any permit for the spa, an agreement between the property owners specifically setting forth whose responsibility it is to maintain the fence in, a form recordable with the Bucks County Recorder of Deeds and effective for such time as the pool is in existence, shall be provided to the Township.
2. The spa or hot tub shall be required to have a cover, whether compliant with ASTM F1346 or not, capable of being locked, for the purposes of safety and to cover the water surfaces during the off-season or such other periods of non-use. The spa cover shall be required to be locked when not in use.
3. The spa or hot tub shall be no closer to a lot line than 12 feet.
4. In the event of a conflict between this Section 405, Subsection B10 Residential Accessory Building, Structure, or Use, Subsection H, and the “International Swimming Pool and Spa Code of 2015 or such later Code as may be adopted by the Pennsylvania Department of Labor, the ‘International Swimming Pool and Spa Code as adopted by the Pennsylvania Department of Labor shall prevail.”

7. The provisions of Article 4 Use Regulations, Section 405, Subsection B14 Living Community, Subsection C. Dimensional

Requirements, are amended with respect to Parking Spaces Required to provide as follows:

“Parking spaces required 2 spaces per dwelling unit
plus one (1) space per
unit for overflow parking.”

8. The provisions of Article 4 Use Regulations, Section 405, Subsection C2 School, Subsection F Standards for Accessory Stadium, are amended revise subparagraph 3 as follows:

“3. An accessory stadium shall not be located on any property of less than fifty (50) acres.”

9. The provisions of Article 4 Use Regulations, Section 405, Subsection C2 School, Subsection F Standards for Accessory Stadium, are amended to add a new subparagraph 7, as follows:

“7. The Institutional Outdoor Recreation Lighting Standards of Article 30, Section 3016, shall apply for lighting stadium athletic fields.”

10. The provisions of Article 4 Use Regulations, Section 405, Subsection E28 Specialty Cultural Shopping Center, are revised to provide as follows:

“E28 Specialty Cultural Shopping Center

A highly specialized center with stores dealing in handicraft, art, flowers, household goods, boutiques and antiques. Businesses with more than three retail outlets selling the same merchandise with the same retail concept or store branding, supermarkets, department stores, variety stores, dollar stores, stores selling primarily at discount, and/or service stations are not permitted under this use.

A. Dimensional Requirements:

Maximum site area 15 acres

Minimum site area	5 acres
Minimum front yard setback	50 feet

B. Uses permitted:

1. Except as above restricted, Uses E1 (Retail Stores), E5 (Service Business), E6 (Financial Establishment), and E8 (Eating Place) may be permitted as long as they are in keeping with the spirit of this section.
2. Snack stands and food vendors, operating outside of an enclosed building are permitted.
3. Vending machines located outside of a completely enclosed building shall not be permitted.

C. The largest permitted shop size for a single retail store shall not exceed four thousand (4,000) square feet nor be less than two hundred and fifty (250) square feet. The average size of all stores in the center shall be no more than one thousand five hundred (1,500) square feet.

D. The center shall be planned and designed as a single complex.

E. Special events and outdoor sales - Special events and outdoor sales are permitted no more than six times per year and only in accordance with the following regulations:

1. The outdoor area devoted to temporary outdoor sales shall not exceed twenty (20) percent of the total lot area.
2. Snack stands and food vendors operating outside an enclosed building are permitted. Vending machines located outside an enclosed building are prohibited.
3. Each special event shall last no longer than five (5) days.

F. Parking: five (5) off-street parking spaces per one thousand (1,000) square feet of commercial floor space. Parking for uses E8 and E31 shall be provided as specified for those uses.

G. A Pedestrian Circulation Study shall be required. Pedestrian circulation shall be provided by pedestrian walkways or paths across adjacent streets and connecting to adjoining residential developments and shall be designed to permit safe passage of pedestrians without interference from vehicular traffic. Such walkways or paths shall be clearly demarcated and shall be constructed in accordance with the most current Pennsylvania Uniform Construction Code and Americans With Disabilities Act standards.

H. Existing historic structures identified in the survey made by the Heritage Conservancy and maintained by the Buckingham Township Historic Commission shall be retained, rehabilitated and incorporated into the Specialty Cultural Shopping Center use.”

II. Article XXX:

11. The provisions of Article 30 General Regulations Applicable to all Districts and Uses, Section 3003, Minimum Lot Width and Lot Frontage Requirements, Subsection C, shall be amended so as eliminate the existing provisions of subparagraph C. and add a new subparagraph C. as follows:

“C. Every principal building shall be built on a lot with frontage on a public street or street improved to meet the Township’s standards for public streets and to which the lot is permitted access. Lot frontage shall be a minimum of 25 feet, or greater as may be required by Section 3003.B.”

12. The provisions of Article 30, General Regulations Applicable to all Districts and Uses, Section 3016 Lighting, Subsection I. Institutional, Private Non-Profit and Commercial Outdoor Recreation Lighting shall be amended to revise subparagraph 2 to read as follows:

“2. All private, non-profit, commercial and non-municipal outdoor recreational lighting shall, in all zoning districts other than in the Institutional Districts, be only by Special Exception and the Special Exception applicant shall bear the burden of proving that the proposed lights do not impact or offend abutting property owners or the community. When considering a Special Exception, the following standards shall be considered.”

Subparagraphs a. to f. of subparagraph 2 shall remain unchanged.

13. The provisions of Article 30 Regulations Applicable to all Districts and Uses Section 3016 Lighting, Subsection I. Institutional, Private Non-Profit and Commercial Outdoor Recreation Lighting shall be amended so as to add the following additional subparagraph:

“3. Institutional Outdoor Recreational lighting shall be designed with the following standards:

- a. All lighting installations shall be designed to provide measured on-field illuminance values appropriate for the application per the Illuminating Engineering Society of North America (“IESNA”) RP-6-15 Sports and Recreational Area Lighting criteria (or equivalent International Commission on Illumination [“CIE”] guidance) together with modeled initial illuminance targets. The maximum permitted on-field illumination shall be based on the IESNA Classification of Play for the proposed facility. To limit overlighting, the maximum initial illuminance shall not exceed 10% of the average target illuminance level at any point on the playing surface.
- b. All games, events , or other activities using outdoor recreational lighting shall be scheduled in such a manner to allow their completion prior to 10:00 PM. The recreational lighting shall be turned off no more than 30 minutes after the end of the day's activities but in no event later than 10:00 PM unless a game or event reasonably scheduled to end prior to 10:00 PM is still in progress.

- c. A low level lighting system (“Low Level Lighting System”), separate from the athletic field lighting (“Field Lighting”) shall be installed to facilitate patrons leaving the facility, cleanup, nighttime maintenance, and lighting of the surrounds of the facility. The Low Level Lighting System shall be installed on posts that are a maximum of 15 foot high and 3000 K color temperatures, shielded from property lines and with full cut-off fixtures and shall provide an average horizontal illumination level, at grade level, of no more than 3.0 foot-candles (“fc”). The low level lighting system shall be extinguished when not required for nighttime maintenance
- d. Field Lighting fixtures shall be specified, mounted, and aimed so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination falls off the site. In no event may off-site spill exceed 5 lux (0.5 fc) at any location on any non-residential property, and 1 lux (0.1 fc) at any location on any residential property, as measured from any orientation of the measuring device. Glare shall be so limited so as to conform with the Dark Sky Association’s recommended glare limits of 150 feet from the primary playing area. The lighting design shall be reviewed and approved by the Township Engineer to assure its conformance with this Ordinance prior to any permit being issued.
- e. The mounting height and quantity of luminaries shall be the minimum required to provide adequate illumination to safely conduct events on the athletic field and shall not exceed a maximum mounting height above grade of 90 feet and shall be designed to conform to the IBC Building Code (current adopted version) for wind loading.
- f. Modeled luminous intensity from any luminaire for any viewing angle at 5’ above grade level, at a distance equal to 150’ beyond the edge of the field shall not exceed 1000 candela (absolute). Luminaires shall not emit more than 250 lumens in the “Very High” glare zone, ranging from 80° to 90° above nadir. This shall be verified through a luminaire photometric report and aiming summary report

and visual inspection, or through an equivalent software application and visual inspection.

- g. All electrical components of the lighting system including wires, transformers, light poles, and luminaires shall be designed and located to maximize public safety. All wiring shall be underground.
- h. Up light shall conform to the IDSA recommendation that all luminaires must be designed such as to not to emit direct light above the horizon, unless required for the activity (i.e., aerial sports) being played. In those cases, only 8% of the total (directly) applied Lumens as modeled may be in this zone. For modeling purposes, a horizontal ceiling grid shall be placed 5 feet (1.5 meters) above the top of the tallest pole, extending out to 150 feet (45 meters) beyond the edge of the field to determine compliance . Installation shall not deviate from the design.
- i. Lighting for athletic field activity cannot exceed an average color temperature of more than 5,700 Kelvin.
- j. Lighting for associated parking areas, pedestrian circulation, accessory buildings, and security shall comply with the requirements set forth in this ordinance and shall be detailed on an overall lighting plan for the facility.”

14. The provisions of Article 30, General Regulations Applicable to all Districts and Uses, shall be amended to add a new Section 3030 providing as follows:

“Section 3030 Reasonable Accommodation

Persons with a claim for reasonable accommodation under the Fair Housing Amendments Act or the Americans with Disabilities Act of provisions of this Ordinance regulating a dwelling shall submit an application for a special exception to the Zoning Hearing Board. The Zoning Hearing Board shall follow the procedure outlined in §3606 Special Exceptions in processing the application.

- A.** The Application for special exception shall include:
1. The specific location of the property and a description of the structures thereon;
 2. The name and address of the property owner(s);
 3. The name and address of the individual(s) requesting reasonable accommodation;
 4. The Specific citation of the Zoning Ordinance provision from which reasonable accommodation is requested.
 5. The specific description of the reasonable accommodation sought and the particulars, including exact admonitions of any proposed structural or location based accommodation.
 6. The condition of the Applicant for which reasonable accommodation is sought.
 7. A description of hardship, if any, that the Applicant will incur absent provisions of the reasonable accommodation requested and describing why the requested accommodation is necessary to afford the Applicant an opportunity equal to a non-handicapped or non-disabled person.
 8. A description of any alternative methods of relieving the claimed hardship that have been considered and the reason, why the Applicant has rejected such alternatives.
 9. A description of the manner in which the accommodation, if granted, will be terminated or removed if said accommodation is no long applicable.
- B.** Any information in the Application identified by an applicant as confidential shall, to the extent legally permissible, be retained in a manner so as to respect the privacy rights of the applicant and not be made available for public inspection:
- C.** The Zoning Hearing Board may grant a Special Exception affording a reasonable accommodation if, in its judgment, the following provisions are established:
1. The dwelling unit which is the subject of the request will be inhabited or used by an individual disabled as defined under the Fair Housing

- Amendments Act or the Americans with Disabilities Act;
2. The request for reasonable accommodation is necessary to make specific housing available to an individual disabled under the Fair Housing Amendments Act or the Americans with Disabilities Act;
 3. That the provision of this Ordinance from which an accommodation is sought is unduly burdensome to the disabled occupant as defined under the Fair Housing Amendments Act or the Americans with Disabilities Act.
 4. That the proposed accommodation provides a direct amelioration of the disability's effect.
 5. That alternative reasonable accommodations will not provide a comparable level of benefit.
 6. The requested reasonable accommodation would not impose an undue hardship on the Township;
 7. The requested reasonable accommodation would not impose an undue financial or administrative burden on the Township;
 8. The requested reasonable accommodation would not require a fundamental alteration in the nature of a Township program or law, including but not limited to land use and zoning;
 9. That the requested reasonable accommodation will not have an undue impact upon surrounding land uses;
 10. That the requested accommodation will not result in a subsidy, privilege, or benefit not available to non-handicapped or non-disabled persons.
 11. That the requested accommodation will be terminated or removed if no longer required to afford equal housing opportunity to handicapped or disabled persons.
 12. That any rehabilitative or support activities held in the dwelling unit shall be restricted to the occupants thereof.
 13. That the dwelling unit shall comply with the Township's Building, Property Maintenance, Housing and Fire Codes as a condition of approval.

14. That the requested accommodation otherwise complies with the Fair Housing Amendments Act or the Americans with Disabilities Act, as amended, or as interpreted by a court with jurisdictional authority over this Township.

D. In granting a request for reasonable accommodation, the Zoning Hearing Board may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection C. of this section:

E. The written decision on the request for reasonable accommodation shall make findings of fact, shall explain in detail the basis of the decision, including the Zoning Hearing Board's findings on the criteria set forth in required by subsection C. of this section, and shall make conclusions of law."

III. Article XXXI:

15. The provisions of Article 31, Natural Resource Standards, Site Capacity Calculations, Section 3100., Natural Resource Protection Standards, Subsection B. subparagraph 11. is revised to read as follows:

"11. Vegetation at the Perimeter of a Tract –

a. On tracts where, at the perimeter of the tract there is living vegetative growth, other than grasses, greater than five (5) feet in height measured from the ground, all such growth within 100 feet of the perimeter of the tract or edge of cart way, whichever is greater, shall be preserved, except where necessary to provide driveways, walkways, bike paths or roads into the tract. On lots existing as of the date of this amendment (09/2021) where application of this paragraph would result in a building envelope less than seventy-five (75) feet by seventy-five (75) feet, such growth within 100 feet of the perimeter of the tract or edge of cart way may be removed in roughly equal proportions on each side so as to permit a seventy-five (75) feet by seventy-five (75) feet building envelope."

16. The provisions of Article 31, Natural Resource Standards, Site Capacity Calculations, Open Space Standards, Buffers, Section 3101 Application of Natural Resource Protection Standards, Subsection B. shall be amended to revise Subsection B. to read as follows:

“B. The following site capacity calculations shall be submitted with applications for use B1 Detached Dwelling, use B2 Townhouse and Twins, Use B3 Apartment, Duplex or Multifamily, Use B4, Mobile Home Park, use B13 Preservation Development with Single Family Detached Dwellings and use B14, Living Community. Through these calculations, the net buildable site area, the maximum number of lots or dwelling units, the maximum amount of impervious surfaces and the required open space will be determined for the specific site. Where the district requirements or use regulations of this ordinance require a sketch plan in order to determine the maximum number of dwelling units permitted, the sketch plan shall be used to determine the permitted number of units rather than the site capacity calculations. For the purposes of the site capacity calculations the total resource land of forest shall be based upon an evaluation of the canopy area (as opposed to by caliper inch). Areas identified as Resource Protection Land may be used to meet the open space requirements for uses where this ordinance requires a sketch plan in order to determine the maximum number of dwelling units permitted.”

IV. Miscellaneous:

17. In all other respects , the provisions of the Buckingham Township Zoning Ordinance are reaffirmed and ratified , subject only to the modifications to same as set forth herein.

18. In the event a court of competent jurisdiction shall declare any portion of this Ordinance invalid , such invalidity shall not affect the Ordinance in its entirety , as it was the intent of the Board of Supervisors

that the Ordinance would have been adopted, even if the offending provision had not been included.

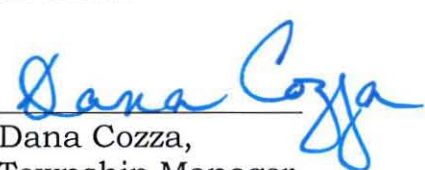
ENACTED AND ORDAINED THIS 22nd DAY OF September, 2021.


BUCKINGHAM TOWNSHIP
BOARD OF SUPERVISORS




Jon Forest, Chairperson

ATTEST:



Dana Cozza,
Township Manager

Paul Calderaio

Maggie Rash