

**ORDINANCE NO. 2021-02**

**AN ORDINANCE OF DISTRICT TOWNSHIP,  
BERKS COUNTY, PENNSYLVANIA  
RELATING TO THE STORAGE OF RUBBISH  
AND WASTE AND PROVIDING FOR  
INSPECTIONS, ESTABLISHING PROCEDURES  
FOR COMPLIANCE AND PENALTIES FOR  
VIOLATION**

**WHEREAS**, pursuant to Section 1506 of the Second Class Township Code, the Board of supervisors of District Township (the Township) has the power and duty to promote the protection of the public and the health, safety, and welfare of the Community;

**WHEREAS**, the Board of Supervisors of District Township recognize that there is a need within the Township to establish minimum health and safety requirements for rubbish and waste storage around properties, buildings, and structures;

**WHEREAS** the uses of property that: 1) dispose of garbage, rubbish or refuse or other waste in an improper manner; 2) accumulate rubbish, refuse, garbage and household waste; 3) store or dispose of garbage, rubbish, refuse or other items in an unsafe or unsanitary manner; and/or 4) create, allow, or fail to remedy dangerous or unsanitary conditions are ALL harmful to other residents; and,

**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 District Township Rubbish and Waste Storage Ordinance.

**Section 2. Definitions**

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

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

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

**Lot:** Any plot, tract, premises or parcel of land or portion thereof, with or without improvements thereto.

**Occupant:** Any person or entity in actual possession of any Lot or Property including, but not limited to, tenants, lessees, licensees, occupiers or possessors of any Lot or Property that has or claims any right to occupy or possess the same.

Operator: Any person or entity who has care or control of a structure, building, Lot, or Property.

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 fiduciaries, trustees, and executors of Owners or Tenants as well as all Mortgagees who have exercised any right to possession, assignment of rents, who are in possession, or who have obtained judgment in foreclosure. Owner also includes Operator.

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 commercial and industrial wastes.

Rubbish Combustible and noncombustible waste material including paper, rags, containers, cartons, boxes, wood, excelsior, plastic, packing peanuts or similar material, rubber, leather, cans, jugs, metals, glass, crockery, yard and tree trimmings, residue from the burning of wood, coal, coke, plastic or other combustible materials.

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

### **Section 3. Application.**

The provisions of this Ordinance are intended to establish minimum standards and supplement other applicable local laws, ordinances or regulations existing in the Township or those of the Commonwealth of Pennsylvania and to the extent allowed by law, shall be interpreted to provide standards in addition to and complimentary with other such regulations. In the event of any direct conflict with any other applicable provision of a local law, ordinance, code or regulation, the Township intends that the provisions which offer the greater protection to be applied.

### **Section 4. Property**

a) Yards, Open Lots, Parking Areas. No Owner, Operator, or Occupant shall permit or maintain:

1. The accumulation of Garbage, Refuse or Rubbish or any condition which creates or attracts rodent harborage and/or any other infestation in or on any structure, Yard, Lot or Property;

2. Burning and/or burying of any Garbage, Refuse, or Rubbish in any Yards, Lots or Property. This section does not prohibit burning that complies with the Township's burning ordinance. This section is not intended to prevent the safe burning of tree trimmings or yard waste which originates on the individual lot involved;

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

1. Maintain all Properties, Lots and buildings 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, Rubbish, 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) General Provisions. No person or entity shall, on any Lot or Property:

1. Accumulate, store, or maintain or otherwise allow the accumulation of: a) appliances such as refrigerators, stoves, freezers and/or other similar items; b) furniture or discarded household items; c) inoperative or unlicensed vehicles; d) scrap metal, scrap wood, or used glass or building materials; e) electronic devices; f) chemicals; g) inoperative machinery; h) industrial waste; or (i) any other materials which may create a hazard to the health and safety of Township residents or the general public. During any period where appliances temporarily awaiting prompt removal and proper disposal, such appliances shall be rendered safe by completely removing any and all locking devices and/or doors;

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

3. Use or employ any Lot or Property to store, dismantle, destroy, bury or accumulate, cars, vehicles, metals, scrap, building materials, and/or recyclable materials except on Property where such uses are lawfully permitted in the applicable Zoning District.

#### **Section 5. Nuisance**

Any Property, Lot, building, and/or structure used, existing, maintained or permitted to exist, be used, or maintained in violation of Section 4 of this Ordinance is hereby declared to be a Public Nuisance and all Owners, Operators and/or Occupants of such Property, Lot, building or structure using, allowing, maintaining or permitting any activity prohibited by this ordinance shall be jointly and severally liable and subject to the enforcement provisions of this ordinance.

#### **Section 6. Responsible Persons**

a) Responsibilities of Occupants or Operators. All Operators and/or Occupants of a Property shall be responsible for compliance with the provisions of this Ordinance with respect to the maintenance of buildings, structures, and/or Property or portions thereof which he/she occupies, possesses, and/or controls and shall keep the same in a safe, sound and/or sanitary condition, regardless of any contract/agreement with any third party.

b) Responsibilities of Owners.

1. All Owners of Property shall be responsible for what occurs on property they own and shall comply with the provisions of this Ordinance. Owners are and shall be joint and severally liable herein, regardless of any agreements between Owners, Operators, Occupants or third parties.

2. In instances where an Operator and/or Occupant is responsible, or shares responsibility with an Owner, for the existence of one (1) or more violations of this Ordinance, the Township may look to any one or all of the same to enforce the terms and provisions of this Ordinance.

#### **Section 7. Inspections and Right of Entry**

The Board of Supervisors may, or may through an authorized representative of the Township, enter into any building, structure, Lot or Property for the purpose of investigating complaints, inspecting the same and enforcing the provisions of this ordinance. Except in the event of any emergency, or where it is not reasonably possible to notify Owners, Occupants, or Operators in advance, the Township will provide some advance notice to the Owner, or Occupant, or Operator. In

the event access is denied, or in the event where there are reasonable grounds to believe there are ongoing violations where advance notice would facilitate concealing evidence or facilitate repeat violations, the Township shall have the right to seek court authorization including but not limited to search warrants or other court orders to gain access for the purpose of investigation, inspection, and/or enforcement.

### **Section 8. Procedure**

a) Notice to Comply. If any Lot, Property, building or structure is reasonably believed to be or appears to be in violation of the provisions of this Ordinance, the Township will give 20 days' notice of the apparent violation and an opportunity to remedy the same, to the Owner, Operator and/or Occupant except as described below. Such notice may be served by ordinary mail, certified mail, personal service and/or posting upon the Property at a conspicuous location or any other form of notice which provides actual notice to the Owner, Operator, or Occupant as the case may be. Notwithstanding the forgoing, where an emergency situation exists which poses an immediate threat of harm to any persons or property, no such notice is required. In addition and notwithstanding anything to the contrary, where facts exist which indicate ongoing violations and/or efforts on behalf of the Owner, Occupant, or Operator to conceal violations including but not limited to use of construction or heavy equipment on Lots or property not zoned for maintenance or use of the same, or used after dark, other activity conducted at night, or repeated burning or smoke or smells emanating from the Property, no notice shall be required. However, in the ordinary case, the Township shall give the Owner and/or Occupier 20 days advance notice. The notice shall contain a general description of the violation with reasonable particularity and state the action(s) to be taken to abate the violation.

b) Authority to Remedy Noncompliance. If the Owner, Operator, and/or Occupant does not comply with the notice to remedy or abate the conditions, within the time limit prescribed, the Township shall have the power but not the obligation to take all steps necessary to remedy or abate the violations at the Owner and Occupant's expense plus all legal fees, costs incurred in the investigation and enforcement of this ordinance and all other administrative costs incurred by the Township in doing so as well as in enforcing this Ordinance.

### **Section 9. Penalties**

In accordance with Article XVI Section 1601 (b) of the Pennsylvania Second Class Township Code, as amended, any violation 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 court costs and all legal fees incurred which shall be recoverable and reimbursed to the Township in the event of any enforcement and/or if the Township abates or remedies any violation that poses a threat to persons or property. Where notice is given, the fine shall commence on the 21<sup>st</sup> day after notice is issued by the Township. Each day thereafter that the violation remains shall be considered a separate offense. In circumstances where the notice provisions are not applicable due to emergency situations or where it is determined by the Court that the Owner, Operator, or Occupant is or was concealing or attempting to conceal activities constituting violations hereof, the fines may be imposed effective on the date violations are determined to have occurred.

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 and the filing of municipal liens.

**Section 10. Authorized Officers**

The Township Code Enforcement Officers, the Township Zoning Officers and all law enforcement agencies having jurisdiction within District Township and any one or more of them and their agents are all expressly authorized to enforce the terms of this Ordinance.

**Section 11. Joint and Several Liability**

All Owners, Operators and Occupants 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 provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of District 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 in direct conflict with this ordinance, but this ordinance is intended to be interpreted consistently with all other health, safety and regulatory statutes and ordinances and provide additional remedies where possible.


**Section 14. Effective Date**

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

ORDAINED and ENACTED as an Ordinance of District Township, Berks County, Pennsylvania, in lawful session duly assembled this 15<sup>th</sup> day of July, 2021.


DISTRICT TOWNSHIP BOARD OF SUPERVISORS

  
\_\_\_\_\_  
Ed Overberger, Chairman

  
\_\_\_\_\_  
Leonard Robb, Vice-Chairman

absent  
\_\_\_\_\_  
John Burger, Supervisor

Attest:

  
\_\_\_\_\_  
Elaine Schwien, Township Secretary