

ORDINANCE NO. 2005-1
WILMINGTON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF WILMINGTON, MERCER COUNTY, PENNSYLVANIA, REGULATING THE ACCUMULATION OF GARBAGE AND OTHER REFUSE MATERIAL UPON PRIVATE PROPERTY; REGULATING AND PROVIDING FOR THE COLLECTION, REMOVAL AND DISPOSITION OF GARBAGE, RUBBISH, AND OTHER REFUSE MATERIAL; PROVIDING FOR THE ENFORCEMENT OF THE ORDINANCE AND FIXING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF WILMINGTON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA, AND IT IS HEREBY ENACTED AND ORDAINED BY AND WITH THE AUTHORITY OF THE SAME AS FOLLOWS:

SECTION 1: DEFINITIONS.

a. Garbage: The term garbage shall mean all animal and vegetable waste which has been used or intended to be used for food, or resulting from the handling, preparation, cooking and consumption of food, and also all other putrescible animal and vegetable waste, including condemned foods, but excluding excess fruits from trees and garden products growing or grown within the Township.

b. Rubbish: The term rubbish shall mean all discarded or waste rags, clothes, glass (broken or otherwise), leather, carpets, wood, excelsior, crockery, tin cans or any other type of cans, bottles, paper and plastic containers, paper, rubber, and other household or trade or business refuse of similar materials or kind, including incinerator ashes, refuse from paper and trash burners, and ashes from heating plants and stoves. The term shall not include refuse caused by repairs, alternations or new construction or demolition of buildings and sidewalks.

c. Other Refuse Materials: The term other refuse material shall include, but it is not limited to, discarded water tanks, sinks, stoves, refrigerators, washing machines, furniture, or other discarded appliances, and any other household, family, trade or business junk and refuse, or leaves, yard trimmings, discarded plant growth and tree branches; discarded motor vehicles or motor vehicle parts; or abandoned or junked automobiles (The Vehicle Code of the Commonwealth of Pennsylvania, 75 P.S. 1042, "provides the penalties for abandonment by any person of vehicles on or along any highway or on property other than his own except where the property is a junk or scrap yard," and this Ordinance is not intended to cover this situation).

d. Person: The term person shall mean any natural person, firm, association, corporation, or any other entity.

e. The singular shall include the plural and the masculine shall include the feminine and neuter.

f. The definitions in subsections a, b and c above shall include residential solid waste and bulk items as defined in Purdon's Pennsylvania Statutes.

SECTION 2: It shall be unlawful for any person to accumulate or allow the accumulation of garbage or rubbish on any public or private property, or allow the accumulation of other refuse material on any private property, owned, leased, or controlled by such person, except garbage or rubbish deposited in a proper container for collection and disposal outside the Township, by Township employees or the collector authorized, as hereinafter provided, by the Township, EXCEPT:

- a. That a property owner or tenant of any premises owned or occupied by him may dispose of garbage or rubbish originating from the premises owned or occupied by him by burning as authorized by law.
- b. That it shall NOT be deemed a violation of this Ordinance to accumulate or allow the accumulation of "garbage", "rubbish" or "other refuse material" as defined in Section 1 of this Ordinance, until either the Chairman or the Township Board of Supervisors through the Township Secretary first gives any such property owner and/or tenant of the premises owned or occupied by him written notice to remove any such refuse material. If said refuse material is not removed within thirty (30) days from the receipt of said notice by the said owner or occupier of the grounds or premises, it shall be deemed a violation of this Ordinance.
- c. That it shall NOT be deemed a violation of this Ordinance to accumulate or to allow the accumulation of and/or provide for by whatever legal means the removal of agricultural waste. Agricultural waste may be disposed of as is authorized by law as an exception to this Ordinance. Agricultural waste is defined as poultry and livestock, manure, residual material, liquid or solid form generated in the production and marketing of poultry, livestock, fur bearing animals, and their products, provided that such agricultural waste is not hazardous. The term includes the residual material generated in producing, harvesting, and marketing of an agronomic, horticultural, aquacultural, and silvicultural crops or commodities grown in what are usually recognized and accepted as farms, forests, or other agricultural lands. (This term also includes materials and liquid or solid form generated in the production or marketing of fish or fish hatcheries.)

SECTION 3: The Township Board of Supervisors is authorized to provide for the collection and disposal outside the Township of garbage, rubbish and other refuse materials generated by either residential or commercial persons within the Township as

defined herein by Township employees or by a collector to whom the exclusive right to collect and dispose of such refuse shall be awarded or granted.

SECTION 4: The contract between the Township and the contract hauler or collector of garbage and rubbish shall fix a fee to be charged residential users by the contractor or collector, whether a fixed fee, a per bag fee, or other fee, the fee to be in the amount approved by the Township Board of Supervisors. The contractor or collector shall charge and collect from the residential customer for such services, the amount so approved by the Township Board of Supervisors, and may contract separately with commercial or industrial customers.

SECTION 5: The vehicles used for the collection of garbage and rubbish shall be of substantial construction, water-tight, being a packer-type vehicle, which shall be closed at all times except when garbage or rubbish is being placed in the vehicle. Collection by the collector, whether it be an independent contractor or employees of the Township, shall be conducted in a neat and workmanlike manner, and no refuse shall be spilled on any private or public property or on streets in the collection and removal operation.

SECTION 6: It shall be unlawful, and a violation of this Ordinance, for any person, other than the employees of the Township or the contractor or collector having the exclusive right to collect garbage and rubbish, to haul from the Township any garbage or rubbish as defined herein. However, any hauler, including the hauler having the exclusive contract to haul garbage and rubbish as defined herein, may haul and dispose of outside the Township other refuse material as herein defined, other than garbage or rubbish as defined by the Ordinance, under a contract arrangement made directly between the hauler and the resident or commercial person or the Township subject to the following:

- a. No person shall collect, remove, haul or convey other refuse material from the Township of Wilmington or dispose of the same in any manner or place without authorization from the Township Board of Supervisors.
- b. No authorized collector shall make any change in the arrangements for disposal of refuse collected by him without first receiving the approval of the Wilmington Township Board of Supervisors.

SECTION 7: All containers for the storage of garbage and rubbish except for the storage of bulky rubbish, shall be of non-corrodible metal or plastic construction, vermin-proof, water-proof, and shall be equipped with handles and tight-fitting lids.

SECTION 8: Enforcement: Any police officer of the Township of Wilmington, on his own initiative or at the direction of the Chairman of the Township Board of Supervisors, shall have the power and duty to enforce the provisions of this Ordinance by filing a non-traffic citation with the appropriate District Justice.

SECTION 9: Penalties: Any person violating any of the provisions of Section 2 or Section 6 of this Ordinance shall, upon conviction before the appropriate District Justice for the Township, be sentenced to pay a fine of up to \$1,000.00 together with the costs of prosecution for each and every offense. Each day a violation exists shall constitute a separate offense for which separate fines and costs are assessable even if written on one complaint.

SECTION 10: Additional Penalties: In addition to the remedies provided in Section 9 above, any continued violations of Section 2 of this Ordinance which shall constitute a nuisance in fact, or which the Township Board of Supervisors declares a nuisance, in any such event, if the owner or occupier of such grounds, or premises fails to abate such nuisance within thirty (30) days from receipt of the written notice from the Chairman of the Township Board of Supervisors to so abate such nuisance, the Township Board of Supervisors may cause the removal of any such garbage, rubbish, and other refuse material as herein defined to be done, and collect the costs thereof, together with a penalty of ten (10) percent of such cost of removal, in the manner provided by law for the collection of municipal claims, or by action of assumpsit. The Township may also seek injunctive relief to abate the nuisance.

SECTION 11: Repealer: All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION 12: Validity: The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of the Court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Township Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause section or part thereof not been included herein.

SECTION 13: Effective Date: This Ordinance shall become effective five (5) days after its enactment.

ORDAINED AND ENACTED INTO LAW BY THE BOARD OF TOWNSHIP
SUPERVISORS OF WILMINGTON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA, THIS
9th DAY OF February, 2005, AT A REGULAR MEETING THEREOF.

WILMINGTON TOWNSHIP

Kenneth A. Armand

Richard A. W. [unclear]

[unclear]

ATTEST:

Wendy Campbell (SEAL)

Wendy Campbell
Township Secretary