

**ORDINANCE NO. 2016-1**  
**WILMINGTON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE TOWNSHIP OF WILMINGTON, MERCER COUNTY, PENNSYLVANIA, REGULATING THE USE, DISTURBANCE, AND OBSTRUCTION OF TOWNSHIP ROADS AND PROVIDING PENALTIES AND OTHER ENFORCEMENT REMEDIES FOR VIOLATIONS.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Wilmington, Mercer County, Pennsylvania, as follows:

Section 1. The purpose of this Ordinance is to protect the Township's roads, including the right-of-way, from damage and disturbance, the presence of dangerous materials and substances, obstructions, and hazards to the traveling public. Road maintenance is made more difficult by these conditions, and the safety of persons using the roads is jeopardized. The intent of this Ordinance is to secure the safety of persons and property within the Township and to establish regulations for the welfare of the Township and its citizens.

Section 2. The term "person" as used in this Ordinance shall include any individual, association, public or private corporation for profit or not for profit, partnership, limited liability company, firm, trust, estate, or any other legal entity whatsoever which is recognized by law as the subject or rights and duties. Whenever used in any section or clause prescribing and imposing a penalty or fine, the term "person" shall include the members of an association, partnership, limited liability company or firm and the officers of any public or private corporation for profit or not for profit.

Section 3. The term "Township road" as used in this Ordinance shall mean and shall include the entire width of the improved portion used for traffic between the boundary lines thereof of every street, road, lane, alley or way maintained by the Township of Wilmington, Mercer County, Pennsylvania (the "Township"), which is open to the use of the public for purposes of vehicular travel. For purposes of the definition of Township road for this Ordinance, said definition shall not include the right-of-way or any width beyond that which is maintained by the Township for public travel and use.

Section 4. No person shall permit, cause, establish, continue, maintain or carry on any of the following prohibited acts or activities except for culverts as is permitted by law and use within the right-of-way by entities as permitted or authorized by law:

- (a) The plowing, cultivating, harrowing, planting of crops or in any way disturbing the surface of the land on or within five (5) feet of any Township road.
- (b) The erection, construction or installation of any fence, wall, building, or other structure on or within five (5) feet of any Township road.
- (c) The depositing of fieldstone or debris on or within five (5) feet of any Township road.
- (d) The depositing by runoff of excessive deposits of earth, mud, dirt, silt, or other debris on or within five (5) feet of any Township road, excluding farm equipment or horse/buggies. As used herein, the term "excessive" shall mean a deposit which is of a sufficient density or size to be picked up by the tires or wheels of the traveling public.



(e) The obstruction of or the creation of a dangerous condition on or within five (5) feet of any Township road.

(f) The allowance, placement, or existence of any tree, plant, grass, weed, vegetable, crop or shrub, or part thereof, within any Township road or within five (5) feet of any Township road which may obstruct the view of any driver.

(g) The throwing or placing of snow or ice on or within five (5) feet of any Township road.

(h) No person shall remove snow or ice from any driveway or private road and deposit the same onto, across, or within five (5) feet of any Township road.

(i) The placement of logs on or within five (5) feet of any Township road.

Section 5. Any violation of this Ordinance is declared to be a public nuisance and may be enforced in an equitable action brought in the Court of Common Pleas of Mercer County in lieu of or in addition to the other remedies and penalties set forth in this Ordinance.

Section 6. The Administrator of the Township is authorized to serve written notice, either by certified mail or first class mail, on any person violating the provisions of this Ordinance to remove or eliminate the violation. Upon the failure of said person to comply with such notice, the Board of Supervisors of the Township may remove or arrange for the removal of the nuisance or dangerous structure, substance or condition and collect the cost of such removal together with a penalty of twenty-five (25%) percent of the cost of the removal from the person failing to comply with such notice in the manner provided for the collection of municipal claims or by a civil action without the filing of a municipal claim. The service of a written notice of violation shall not be required if the Board of Supervisors determines that immediate action is necessary or appropriate. The issuance of a written notice of violation shall not be a prerequisite to the Township instituting any action to enforce this Ordinance except otherwise required by law.

Section 7. Any person who or which shall violate any of the provisions of this Ordinance shall, upon conviction thereof by summary proceeding before any Magisterial District Judge having jurisdiction, be sentenced to pay a fine of not more than One Thousand (\$1,000.00) Dollars per violation and court costs. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section or Subsection of this Ordinance which is found to have been violated. If a defendant sentenced to pay a fine or costs after a finding of or determination of guilt in a summary case defaults in such payments, the defendant may be sentenced and committed to the Mercer County Prison for a period not exceeding thirty (30) days. Such fine and costs shall be in addition to the remedies provided in Section 6 of this Ordinance and shall be enforceable and recoverable in the manner provided by applicable law. All fines collected for the violation of this Ordinance shall be paid to the Treasurer of the Township for the general use of the Township.

Section 8. A magisterial district judge or a court shall, to the extent authorized by law, order restitution for injury or damage to Township real or personal property in addition to the fines and costs prescribed in Section 7.

Section 9. The Board of Supervisors shall by resolution appoint an individual(s), agency or firm who or which shall be responsible for enforcing the provisions of this Ordinance. The Township hereby also authorizes any Pennsylvania State Police officer and/or any municipal officer having jurisdiction within the Township to enforce the provisions of this Ordinance.



Section 10. This Ordinance shall not be construed to limit or deny the right of the Township or any person to such legal, equitable, statutory or other remedies as may otherwise be available with or without process of law.

Section 11. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

Section 12. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Township that such remainder of this Ordinance shall be and shall remain in full force and effect.

Section 13. This Ordinance shall take effect and be in force five (5) days after its enactment.

DULY ORDAINED AND ENACTED the 13th day of July, 2016, by the Board of Supervisors of the Township of Wilmington, Mercer County, Pennsylvania, in lawful session duly assembled.

Attest:

Cindy Black  
Secretary

TOWNSHIP OF WILMINGTON  
Mercer County, Pennsylvania

[Signature]

Chairman, Board of Supervisors

[Signature]

Supervisor

[Signature]

Supervisor

