

UPPER TULPEHOCKEN TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

Ordinance No. ____

AN ORDINANCE OF UPPER TULPEHOCKEN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF UPPER TULPEHOCKEN TOWNSHIP, CHAPTER 380, TITLED "SOLID WASTE," TO AMEND ARTICLE I, TITLED "COLLECTION AND DISPOSAL OF GARBAGE AND REFUSE IN THE VILLAGE OF STRAUSSTOWN," BY REMOVING FROM SECTION 380-2, ENTITLED "DEFINITIONS," THE DEFINITION OF "VILLAGE COLLECTOR," AND TO ADD THE DEFINITIONS OF "LICENSED HAULER" AND "TOWNSHIP,"; BY REPEALING SECTION 380-3, TITLED "AUTHORIZATION OF COLLECTORS"; BY AMENDING SECTION 380-4, TITLED "PRE-COLLECTION PRACTICES" TO REMOVE SUBSECTION "A," TITLED "PREPARATION OF REFUSE"; BY REPEALING SECTION 380-5, TITLED "COLLECTION PRACTICES"; BY REPEALING SECTION 380-7, TITLED "FEES"; BY AMENDING SECTION 380-10, TITLED "EFFECTIVE DATE," BY PROVIDING AND EFFECTIVE DATE OF JANUARY 1, 2023; TO REPLACE THE REPEALED SECTIONS WITH A NEW SECTION 380-3, TITLED, "REGULATIONS FOR VILLAGE GARBAGE DISPOSAL AND COLLECTION," PROVIDING, INTER ALIA, FOR VILLAGE OF STRAUSSTOWN RESIDENTS TO CONTRACT WITH A LICENSED HAULER, AND PROVIDING FOR SEVERABILITY AND REPEALER OF INCONSISTENT ORDINANCES.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Upper Tulpehocken Township, Berks County, Pennsylvania as follows:

SECTION 1. The Code of Ordinances of Upper Tulpehocken Township, Berks County, Pennsylvania, Section 380, titled "Solid Waste," Article I, titled "Collection and Disposal of Garbage and Refuse in the Village of Strausstown," is hereby amended to read as follows:

§ 380-1. Short Title.

This article shall be known as the "Sanitation and Refuse Disposal Ordinance."

§ 380-2. Definitions.

For the purpose of this article, the following terms, phrases or words shall have the meaning ascribed to them in this section except where the context in which the word is used clearly indicates otherwise.

ASHES

Residue from the burning of wood, coal, coke, or other combustible material.

BREEDING AREA

Any condition which provides the necessary environment for the birth or hatching of vectors.

COLLECTION OF WATER

As considered in this article, is held to be those contained in ditches, pools, ponds, streams, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, buckets, roof gutters, tanks of flush closets, reservoirs, vessels, receptacles of any kind, or other containers or devices which may hold water.

COMMERCIAL

The use of premises other than as a dwelling and independent of any dwelling unit.

DWELLING

A building used for residential purposes, except hotels, boarding- and lodging houses, tourist cabins, motels and trailers.

DWELLING UNIT

One or more rooms in a dwelling which room or rooms have fixed cooking facilities arranged for occupancy by one person, two or more persons living together, or one family.

EXTERMINATION

The control and elimination of vectors by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, fogging, larviciding, trapping, or by any other recognized and legal vector control elimination methods approved by the local or state authority having such administrative authority.

GARBAGE

Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods.

HARBORAGE

Any place where vectors can live, nest or seek shelter.

LICENSED HAULER

An entity licensed by the agencies of the Commonwealth of Pennsylvania having jurisdiction to collect, transport, and dispose of garbage, refuse, and rubbish.

PERSON

Any person, firm, partnership, association, corporation, company or organization of any kind.

REFUSE

All putrescible and nonputrescible solid wastes (excluding body wastes), including garbage, rubbish, ashes, solid industrial waste, dead animals and street cleanings.

RUBBISH

Includes glass, metal, paper, grass, plant growth, wood, branches and ashes.

TOWNSHIP

Upper Tulpehocken Township, Berks County, Pennsylvania and its elected and appointed officials.

VECTOR

A rodent, arthropod, or insect capable of transmitting a disease or infection. Vectors shall include, but not be limited to, rats, mosquitoes, cockroaches, flies, ticks, etc.

VECTOR PROOFING

A form of construction to prevent the ingress or egress of vectors to or from a given space or building or gaining access to food, water, or harborage. This term shall include, but not be limited to, rat proofing, fly proofing, mosquito proofing, etc.

VILLAGE

The Village of Strausstown, Berks County, Pennsylvania, in the Township of Upper Tulpehocken.

§ 380-3. Regulations for Village Garbage Disposal and Collection.

A. Accumulation prohibited. All exterior property and premises and the interior of every structure shall be free from any accumulation of municipal waste.

B. Method of disposal. The occupants of a structure shall dispose of all municipal waste in a clean and sanitary manner by placing such municipal waste in approved containers.

C. Containers required. The owner of every dwelling shall supply approved leakproof, covered, outside garbage containers of sufficient number so that all garbage and refuse of all of the occupants of the premises can dispose of their municipal waste in a garbage container and so that no municipal waste is stored by any occupant of the premises outside of a garbage container at any time.

D. Storage of municipal waste. The owner of any premises shall provide at all times approved leakproof containers with close-fitting covers for the storage

of municipal waste until such time as the municipal waste is removed from the premises for disposal.

E. Removal by licensed haulers. Every owner in the Village shall contract with an individual, entity or firm which is a licensed hauler by the Commonwealth of Pennsylvania to have all the municipal waste generated on the premises by any of the occupants of the premises removed on a weekly basis or more often.

F. Proof of contract required. On annual basis, the owner of any real estate within the Village shall present proof adequate in the judgment of the Township Manager or other designee that the owner of said real estate has a current contract with a licensed hauler to dispose of municipal waste generated on the premises on a weekly basis or more often. The owner of the premises shall have 72 hours to provide proof to the Township Manager or other designee that they have a current contract with a licensed hauler to provide sufficient service to satisfy the terms and conditions of this article.

G. Duties of haulers. Any hauler picking up municipal waste in the Village shall be required to advise the Township Manager, in writing, within 72 hours after request from the Township as to whether an owner has a current contract for municipal waste disposal from his or her premises in the Village. Furthermore, all licensed haulers shall cooperate with the Township Manager or Township Manager's designee in providing information in the event that an action is instituted to enforce the terms and conditions of this article.

§380-4. Pre-Collection Practices

A. Refuse containers.

1. All garbage and all other refuse, when possible, shall be placed in containers. Nothing herein contained shall prevent the use of garbage bags as containers.

2. Refuse containers shall be of durable, watertight, rust-resistant material having a close-fitting lid and handles to facilitate collection.

3. Refuse containers for residences shall not be more than 32 gallons in capacity and shall be of such size as can be handled easily by one person. Containers for commercial establishments shall not exceed 40 gallons in capacity with a maximum weight of 75 pounds, unless mechanically loaded commercial dumpsters approved by the Licensed Hauler with whom the property owner has contracted are used.

4. Containers containing garbage shall be covered with a lid which fits securely and prevents access to flies and other insects.

5. It shall be unlawful to permit the accumulation of residue of liquids, solids or a combination of such material on the bottom or sides of containers, it being the intention of this provision that the interior of containers shall be kept clean by thorough rinsing and draining as often as necessary.

6. All containers shall be kept in a sanitary condition and shall be kept in good condition. Any container that does not conform with this article or that is likely to injure the collector or his employees, or hampers the prompt collection of refuse, shall be replaced upon notice. Failure to replace said defective container may result in the loss of refuse collection until such time as the container is replaced.

B. Accumulation of refuse.

1. No person shall place any refuse upon any street, alley, walk or other public place, or upon any private property, except in proper receptacles for collection, or where the refuse is of such size and shape as not to permit its being placed in containers.

2. No person shall deposit refuse in any stream or body of water. In no event shall refuse be placed on the property of another without the consent of the owner.

3. No person, except the occupants of the property on which the container is placed and an authorized collector shall remove the lids of the container and/or remove the contents thereof.

4. Refuse of a highly inflammable or explosive nature, or highly infectious or contagious refuse shall not be stored for ordinary collection, but shall be disposed of in accordance with the directions of the Commonwealth of Pennsylvania, Department of Environmental Protection.

5. No person shall allow refuse to accumulate so that it shall or may afford food, harborage or breeding areas for rats, flies or other vectors.

C. Location of containers.

1. Refuse containers shall be placed according to the distances set forth in the following subsection, for collections by the collector from the street or alley abounding and abutting the property.

2. Refuse containers shall be placed for collection at ground level on the property, not within the cartway of a street or alley and accessible to, and not more than 10 feet from the side or curb of the street or alley from which collection is made.

3. It shall be unlawful to permit containers to remain at the curbside or along a public right-of-way for periods longer than 24 hours prior to or following regularly scheduled collection days.

§ 380-5. Rubbish and Vector Abatement

A. Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

B. Every occupant of a dwelling for dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

C. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, and/or rodents, on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

D. Whenever it shall be determined that any dwelling, building, structure, accessory structure, premise, collection of water, or any other place is in violation of this article, a notice shall be issued setting forth the alleged violations, and advising the owner, occupant, operator, or agent that such violations must be corrected. The time for the correction of said violations must be given as well as the necessary methods to be employed in the correction.

E. Whenever said violations shall fail to be corrected within the time set forth, and an extension of this time is not deemed to be necessary, the municipality may proceed to abate said violations in the manner provided by the law.

§ 380-6. Dumping.

On and after the passage of this article, it shall be unlawful to dump or deposit, except for collection under the terms of this article, any garbage, ashes, rubbish or refuse of any nature at any place within the confines of the Village.

§ 380-7. Violations and penalties.

Any person or persons convicted of violating any of the provisions of this article shall be subject to a fine not to exceed \$1,000 per violation, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment in the Berks County Prison to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violations shall be by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under the Pennsylvania Rules of Criminal Procedure relating to trial in summary cases. Each day or portion thereof that a violation continues or is permitted to continue shall also constitute a separate offense.

§ 380-8. Effective date.

This article shall become effective January 1, 2023.

Section 2. Severability. In the event that any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Board of Supervisors of Upper Tulpehocken Township that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 3. Repealer. The Ordinances of Upper Tulpehocken Township, Berks County, Pennsylvania, shall be and remain unchanged and in full force and effect except as amended, supplemented or modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of Upper Tulpehocken Township, Berks County, Pennsylvania, upon adoption. All ordinances or parts of ordinances of the Township which are inconsistent herewith are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective on the earliest date allowed under applicable law.

DULY ENACTED AND ORDAINED into law this ____ day of October, 2022 by the Board of Supervisors of Upper Tulpehocken Township, Berks County, Pennsylvania.

**UPPER TULPEHOCKEN TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA**

Steven Davis, Chairman

Robert Deisemann, Vice Chairman

David Yost, Supervisor

Attest: _____
Susan Ehrets, Township Manager/
Secretary/Treasurer

CERTIFICATION

I, Susan Ehrets, Manager/Secretary of Upper Tulpehocken Township, Berks County, Pennsylvania, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____ adopted at a regular meeting of the Board of Supervisors of Upper Tulpehocken Township, Berks County, Pennsylvania held on the ____ day of October, 2022.

Susan Ehrets, Manager/Secretary

[SEAL]