

BOROUGH OF MECHANICSBURG

ORDINANCE No. _____

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MECHANICSBURG, CUMBERLAND COUNTY, PENNSYLVANIA, PROHIBITING THE PLACEMENT OF DUMPSTERS OR OTHER STORAGE DEVICES UPON ANY PUBLIC PEDESTRIAN SIDEWALK OR WALKWAY IN THE BOROUGH OF MECHANICSBURG AND REGULATING THE PLACEMENT OF DUMPSTERS AND THE STORAGE OF OTHER ITEMS WITHIN THE RIGHT-OF-WAY OF ANY STREET IN THE BOROUGH OF MECHANICSBURG

WHEREAS, per Borough Code at 53 P.S. §1202(5), the Borough Council of the Borough of Mechanicsburg is authorized to enact Ordinances as may be expedient or necessary for the maintenance of the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough and its residents;

WHEREAS, the Borough Council of the Borough of Mechancisburg, Cumberland County, Pennsylvania, (hereinafter "Borough Council") has determined that it is in the best interests of the Borough of Mechanicsburg that the placement of dumpsters and the storage of items within the right-of-way of any public street in the Borough be regulated and that the placement of same upon public sidewalks be prohibited;

WHEREAS, Borough Council recognizes that dumpsters and portable storage containers are a necessary part of the residential and business community of the Borough of Mechanicsburg; however, if left unregulated, dumpsters and portable storage containers can create problems which can have a detrimental impact on the health, safety, and welfare of the community;

WHEREAS, Borough Council recognizes that dumpsters and portable storage containers can hinder pedestrian and vehicular traffic flow and create dangerous conditions by obstructing sidewalks and streets and can create an appearance of disorder and economic blight;

WHEREAS, Borough Council has determined that the regulation of dumpsters and portable storage containers within the Borough will promote the health, safety, and welfare of the community by preventing hazards associated with these devices, by facilitating pedestrian and vehicular traffic flow and by eliminating a nuisance that creates the appearance of inefficiency and economic blight.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Mechanicsburg, in lawful session duly assembled, and it is hereby ORDAINED AND ENACTED as the as follows:

SECTION 1. Title.

This ordinance shall be known and may be cited as the “**Regulation of Dumpsters and Similar Containers on Streets in the Borough of Mechanicsburg Ordinance**”,

SECTION 2. Definitions.

The following definitions shall apply in the interpretation, administration, and enforcement of this Part:

DUMPSTER

Any uncovered, wheeled or otherwise movable receptacle utilized for the storage and/or collection of refuse, trash, debris or other solid waste materials.

GARBAGE

All table, refuse, animal and vegetable matter, offal from meat, fish and fowls, fruits, vegetable and parts thereof, and other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.

HAZARDOUS WASTE

Any garbage, refuse or a combination thereof, as defined in Act 97, which because of its quantity, concentration, or its physical, chemical or infectious characteristics, may:

- a) Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or total population; or
- b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

MUNICIPALITY or THE BOROUGH

The Borough of Mechanicsburg, Cumberland County, Pennsylvania.

PERMIT

A permit issued by the Borough authorizing the temporary placement of a dumpster, portable storage facility or container in or upon a public street, or public grounds.

PERMITTEE

A person or legal entity that obtains or is required to obtain a permit under this ordinance.

PERSON

Any natural person, firm, partnership, corporation, association, limited liability company, estate, trust or other legally recognized entity.

POLICE DEPARTMENT

The Mechanicsburg Borough Police Department, Mechanicsburg, Pennsylvania.

PORTABLE OUTDOOR STORAGE FACILITY (POD)

A portable device or container of 20 cubic yards or more in size and intended for the storage of personal property. This does not include recreational or work-related trailers.

SOLID WASTE

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid or semisolid material generated in residential, municipal, commercial or institutional establishments and from community activities, and other solid waste which is within the definition of "municipal solid waste" as set forth in the Pennsylvania Solid Waste Management Act of 1980 (See 35 P.S. § 6018.101 et seq.) and which the county, the Cumberland County Solid Waste Authority or any contractor, by its ordinance or regulations, is willing to accept at the plant; but excluding any liquid waste or sludge, all wastes which are defined by existing or future federal or state law or regulations as hazardous waste or industrial residual waste, any waste which may be marketable and which is intentionally segregated for purposes of recycling and materials specifically excluded under applicable county ordinances. ACT 97 the Pennsylvania Solid Waste Management Act of 1980, P.S. 380, No. 97, as now or hereafter amended.

STREET

Any public street, highway, road, lane, court, cul-de-sac, avenue, alley or other thoroughfare located within the Borough.

STREET STORAGE

Any item placed in a street for a period in excess of forty-eight (48) consecutive hours that is not a motor vehicle as defined by the Pennsylvania Vehicle Code or a dumpster, including, but not limited to, containers commonly known as portable storage devices, stones, mulch, and yard waste.

SECTION 3. Permit Required.

No person, other than agents or employees of the Borough shall place, maintain or use a dumpster or street storage, on public property, including public thoroughfares or Borough streets without first having obtained a permit from the Borough by filing an application with the Police Department in a form to be hereafter prescribed. Any application fee for obtaining such a

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permit shall be established by resolution of the Borough Council. If the dumpster or street storage is or will be located on the street or within the cartway, the placement of the dumpster or street storage must be approved by the Chief of Police or his/her designee.

A. The permit application is considered complete when all required information is provided on the permit application and any applicable fee is paid.

B. The permit must be issued prior to the placement of the dumpster or street storage by the applicant.

C. All permits issued under this Part shall be valid for a period of four (4) weeks from the date of placement of the dumpster or street storage, as stated in the application. Applicant must notify the Police Department of delivery of dumpster or street storage. If it becomes necessary to amend the date of placement of the dumpster or street storage, the applicant shall notify Borough authorities and four (4) weeks will begin with the actual placement of the dumpster or street storage.

D. Upon expiration of permit, permittee may apply for one (1) extension which may be granted if the enforcement official deems the extension necessary and reasonable. The applicant must apply for an extension at least five (5) business days before the expiration of the original permit. Any extension request for permit, if granted, shall be limited to an increment of no more than a two (2) week period.

E. Permits issued pursuant to this Section shall be nontransferable. Permits may be used only by the permittee to whom originally issued for the dumpster or street storage at the location for which originally issued as stated on the permit application.

SECTION 4. Placement and Use Regulations.

A. No dumpster or street storage device shall be placed on any portion of a public pedestrian sidewalk or walkway in the Borough.

B. The placement of a dumpster or street storage upon a street shall not extend into the travel lane of traffic.

C. A dumpster or street storage placed upon a street shall be illuminated with a warning light, light reflector or a reflectorized material on the front and rear surfaces in such a manner to indicate the height and width of it, and shall be visible for a distance of not less than three hundred (300') feet between the hours of sunset and sunrise.

D. The location and utilization of a dumpster or street storage upon a street shall not be in a manner which constitutes a safety hazard to persons or property.

E. The location and utilization of a dumpster or street storage upon a street shall be in compliance with all federal, state and local laws, rules and regulations applicable thereto, including but not limited to any highway occupancy or other permit required by the Pennsylvania Department of Transportation, in addition to the requirements of this Part.

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F. The dumpster or street storage shall be kept at least twenty (20) feet away from any crosswalk and from any intersection and must be placed so it does not block the view of any motorist pulling into a roadway.

G. The dumpster or street storage shall be conspicuously marked with the name, address and telephone number of its owner and a copy of the current effective permit shall be visibly attached to it.

H. During all times when the dumpster or street storage is in place and in use, a tarpaulin or other suitable weather resistant cover shall be placed over it in order to protect the contents from being displaced and/or causing litter on public property or a private premises or creating dust, offensive odors or other health hazards. In all instances, the container shall, when necessary, be provided with adequate restraints to prevent inadvertent movement from its original location. The need for restraints shall be determined by Borough officials at the time the permit is issued.

I. At all times, including those times when work is not being performed at the dumpster, the dumpster and its refuse contents must be maintained in a manner to assure that the contents of the dumpster may not be invaded or removed by animals, vermin, vandals, scavengers or trespassers and in a manner to assure further that persons occupying residences or other buildings or structures contiguous to, or adjacent to, the dumpster location will not be annoyed by noxious odors, noise, airborne pollutants or other elements or characteristics of the dumpster.

J. When a dumpster is filled to capacity, it must be removed from the Borough street within 24 hours of that occurrence. The dumpster shall be deemed to be filled to capacity when its contents extend above the top edge of any wall of the dumpster or beyond the edges of any door, hatch or other opening in the roof or any wall of the dumpster. No overflow of any material shall be permitted from the dumpster or street storage, nor shall any accumulation of any material next to the dumpster or street storage be permitted.

K. Hazardous waste and garbage shall not be stored in a dumpster or street storage.

L. Each application for a permit hereunder shall be accompanied by a certificate or certificates of insurance, in a form approved by the Borough Manager, issued by one or more insurance companies authorized to do business within the Commonwealth of Pennsylvania certifying that said company or companies have issued or have written the following policies, which shall not be cancelled except on fifteen (15) days' advance written notice to the Borough:

(1). Comprehensive Liability insurance shall be obtained and maintained by the permittee in the amount of at least one hundred thousand dollars (\$100,000) for property damage and personal injury, combined single limit, arising out of or in connection with the placement or utilization of a dumpster or street storage on any street, with the Borough being named as an additional insured on said policy for such purpose.

(2). If any item as listed in definition section above is placed solely on private property, a certificate of liability insurance will not be required at the discretion of the Borough Manager.

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M. The permittee shall execute an indemnity agreement, in a form acceptable to the Borough, promising to indemnify, save harmless and defend the Borough, its officials, agents, servants, and employees and each of them, against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorneys' fees for or on account of any injury to any person or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of a dumpster or street storage on any street.

O. Only one (1) dumpster or street storage per property will be permitted on any street in the Borough.

P. If a chute or similar device or object is to be used with a dumpster, it must be deemed structurally sound by the Borough or its designee, and liability insurance in the same amount and form as set forth in Subsection L above shall be provided.

Q. The permittee shall assume all risk of damage, and the Borough shall not be liable for any damage to the dumpster or street storage when the Borough is plowing snow, maintaining the street or other facilities within the street or performing other public functions. Should a Snow Emergency be declared by the Borough, permittee shall immediately remove from the dumpster or street storage from the street.

R. The permittee shall be responsible for all damages to Borough property which may occur as a result of the placement or use of the dumpster or street storage. If the permittee does not promptly repair any damage after notice to do so from the Borough, the Borough may repair such damage and recover the cost from the permittee.

S. After the dumpster or street storage has been removed, the permittee placing the dumpster or causing its placement in the Borough shall clean and restore the dumpster location to the fullest extent reasonably possible to the condition of that location and its surrounding area as existed prior to placement of the dumpster. If the dumpster location area is not cleaned and restored within 24 hours of removal of the dumpster, then Borough Officials shall cause the area to be cleaned and restored and shall recover the total cost of such cleaning and restoration, plus a 10% surcharge on the total amount, from the permittee.

SECTION 5. Revocation of Permit.

Without limitation as to the utilization of any other legal or equitable remedy or action available to the Borough, civil or criminal, noncompliance with any of the requirements or provisions set forth in this Part or any material false statement or omission made in connection with the application for a permit shall be grounds for revocation by the Borough Manager, the Borough Chief of Police or their designee of the permit issued pursuant to this Part.

The Borough reserves the right to revoke any permit issued for a dumpster or street storage if any conditions of approval are not met or maintained by the permittee. Upon notice of revocation, the permittee shall remove the dumpster or street storage within twenty-four (24) hours of notice unless the Borough Manager, the Borough Chief of Police or their designee determines that because of health or safety concerns, immediate removal of the offending

dumpster or street storage is required which, in that case, the premittee shall immediately remove the dumpster or street storage.

SECTION 6. Removal of Dumpsters or Street Storage.

All dumpsters or street storage placed upon a street in the Borough without a permit or upon expiration of a permit shall be removed immediately upon notice issued by the Borough or Mechanicsburg Borough Police Department. The Borough may at the expense of the owner or lessee of the property or the permittee remove or cause the removal of a dumpster or street storage.

SECTION 7. Penalties.

Any person who or which violates or fails to comply with any provision of this Part shall, upon conviction, be sentenced to pay a fine of not less than Three Hundred (\$300.00) Dollars and not more than One Thousand (\$1,000.00) Dollars plus costs for each such violation. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Part. Each provision of this Part which is violated shall be considered a separate violation. Such fine shall be in addition to any other fine which may be imposed under the provisions of any other ordinances of the Borough, Pennsylvania law, or Federal law. In default of payment of any fine, such person shall be imprisonment for not more than thirty (30) days.

SECTION 8. Equitable Relief.

In addition to or in lieu of the penalties provided in Section 7 hereof, any violations of the provisions of this Part may be abated or enforced by proceedings seeking equitable relief against the violator.

SECTION 9. Severability. If any provision of this ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions which shall continue in full force and effect.

SECTION 10. Repeal of Conflicting Ordinances. Any ordinance or part of ordinance conflicting with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 11. Effective Date. This ordinance shall be in full force and effect immediately upon and after its final passage.

ORDAINED AND ENACTED into law this _____ day of _____ 2014

ATTEST:

BOROUGH OF MECHANICSBURG

Patrick E. Dennis, Secretary

By: _____
Rodney L. Whitcomb, President

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APPROVED this _____ day of _____, 2014

Jack C. Ritter, Mayor

**APPLICATION REQUEST FOR A PERMIT FOR TEMPORARY PLACEMENT OF
DUMPSTER/CONTAINER OR STREET STORAGE ON A STREET WITHIN THE BOROUGH
OF MECHANICSBURG, CUMBERLAND COUNTY, PENNSYLVANIA**

Requestor Information:

Name: _____
Address: _____

Telephone Phone Number: _____
Homeowners Insurance Carrier: _____
Policy Number: _____

Dumpster/Street Storage Company Information:

Name: _____
Address: _____

Point of Contact: _____
Phone Number: _____
Insurance Carrier: _____
Policy Number: _____
Dumpster/Street Storage
Location: _____
Dumpster/Street Storage
Size and Dimension: _____

Estimated Time of Placement:

From: _____ To: _____

Requestor hereby agrees to assume all costs and responsibilities for the placement and maintenance of Traffic Control Devices required to alert and warn drivers of the potential hazards created by the placement of the dumpster/container as required by the Permit.

In addition, the requestor agrees to fully indemnify and hold harmless the Borough of Mechanicsburg and assumes all liability for damages or injury occurring to any person or property through or in consequence of any act or omission of anyone associated with the placement of the dumpster/container or street storage on the roadway.

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Requestor has obtained minimum \$100,000 liability insurance, and named the Borough of Mechanicsburg as an additional insured on said policy for such purpose.

The undersigned has read the conditions and requirements, both above and attached, for the placement of a dumpster container or street storage on the roadway and request permission to place a dumpster/container or street storage on a street within the Borough of Mechanicsburg.

I hereby certify that the information in this application is truthful and correct.

Date: _____

Signature: _____

Name Printed: _____

Fee:

Make checks payable to "Borough of Mechanicsburg"

FOR DEPARTMENT USE ONLY

Fee Paid: _____

Request has been examined by Chief of Police or his designee and recommend:

_____ Approval for placement at : _____

_____ Denial of application

Reason for Denial:

Date: _____

Name of official: _____

Signature:

**DUMPSTER/CONTAINER STREET STORAGE CRITERIA FOR
PLACEMENT BOROUGH OF MECHANICSBURG**

The placement of a dumpster/container or street storage device on a roadway within the Borough of Mechanicsburg may be permitted providing the following criteria are satisfied:

1. The requestor has no other available space (driveway, lawn, etc..) that the dumpster or street storage can be placed.
2. The dumpster/container will not be placed on the roadway longer than FOUR (4) weeks and will not be placed upon any pedestrian sidewalk or walkway.
3. The dumpster/container will be removed within 24 hours of it being filled.
4. The dumpster/container will be secured so as to prevent debris from the container from blowing from or spilling from the container.
5. At all times, including those times when work is not being performed at the dumpster, the dumpster and its refuse contents must be maintained in a manner to assure that the contents of the dumpster may not be invaded or removed by animals, vermin, vandals, scavengers or trespassers and in a manner to assure further that persons occupying residences or other buildings or structures contiguous to, or adjacent to, the dumpster location will not be annoyed by noxious odors, noise, airborne pollutants or other elements or characteristics of the dumpster.
5. Traffic control devices will be properly placed and maintained to alert and warn drivers of the potential hazards created by the placement of the container.
6. The requestor completes an application requesting the placement of the dumpster/container and agrees to the conditions and requirements associated with such request.
7. The requestor pays a \$ application fee.
8. The request is approved by the Chief of Police or his designee.

NO dumpster/container or street storage will be allowed to be placed in any area that a motor vehicle would be prohibited from stopping, standing or parking by either ordinance or statute. (Unless articulable circumstances present and only upon approval of Chief of Police or designee)

Traffic Control Devices:

1. Traffic control devices shall be placed when the dumpster/container is placed on the roadway, and they shall be properly maintained by permittee during the time they are placed.

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2. Traffic control devices shall remain in place only as long as they are needed, and they shall be removed as soon as possible thereafter.
3. Traffic control devices shall be correctly positioned, clean, legible, operative, and in good state of repair. The reflective sheeting is not permitted to be scratched, scarred dirty or show evidence of loss of reflectivity. They shall be repositioned, cleaned repaired, and replaced when necessary to maintain their effectiveness.
4. Devices shall be positioned to provide for a smooth and gradual transition of traffic around the dumpster/container.
5. Devices shall be constructed so as not to inflict undue damage to a vehicle that strikes them inadvertently.
6. Only cones (28"to36"), drums, Type I or II Barricades, or minicades shall be used as traffic control devices. Devices shall have reflective sheeting.
7. In addition to the traffic control devices, the dumpster must display reflective material mounted on each of its corners.