

**TOWNSHIP OF MUHLENBERG
BERKS COUNTY, PENNSYLVANIA
ORDINANCE _____**

**An Ordinance of the Township of Muhlenberg Adopting the
Quality of Life Program**

WHEREAS, lack of maintenance of properties, including allowing weeds and grass to become overgrown, littering, improper storage of trash and rubbish, storage of inoperable/non-registered vehicles, failure to clean up after pets, and accumulation of snow and ice are costly problems that contribute to the deterioration of all property values and general disorder in a community; and

WHEREAS, behaviour such as that recited above degrades the physical appearance of the Township, reduces business and tax revenue, inhibits economic development and negatively detracts from affects the quality of life and community pride of the citizens of Muhlenberg Township; and

WHEREAS, the Board of Commissioners of the Township are charged with promoting the health, safety and general welfare of the Township, its citizens, residents and businesses; and

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Board of Commissioners of the Township Muhlenberg, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same, as follows:

Section 1. Definitions.

The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless context clearly indicates otherwise:

DUMPING - includes, but is not limited to, depositing of rubbish, litter, depositing durable goods (small appliances, refrigerators, washers, dryers, etc.), furniture, carpets, tires, vehicles,

vehicle parts and automotive products, and other such solid waste, and construction or demolition debris on public or private property, except as authorized by law.

FIREWORKS – (1) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion is suitable for use by the public, if use complies with the construction, performance, composition and labelling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or and successor regulation and complies with the provisions for consumer fireworks as defined in APA 87-1 or any successor standard, the sale, possession, and use of which shall be permitted throughout the Commonwealth. (2) The term does not include devices as ground and hand-held sparkling devices, “novelties” or “toy caps” in APA 87-1 or any successor standard, the possession and use of which is permitted at all times throughout the township.

GARBAGE - discarded animal or vegetable matter resulting from the handling, preparation and cooking of food and other matter that is no longer useful, wanted or needed.

GRAFFITI – Markings, as initials, slogans or drawings, written, painted or sketched on public sidewalks, walls of buildings, public restrooms or signs.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

LITTER - includes, but is not limited to, all waste material, garbage, trash or other matter that has been abandoned or improperly discarded or disposed.

MOTOR VEHICLE - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

MOTOR VEHICLE NUISANCE - a motor vehicle with one or more of the following defects:

- (1) Broken windshields, mirrors, or other glass, with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.

(3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.

(4) Protruding sharp objects from the chassis.

(5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harbourage.

(6) One or more open tires or tubes which could permit animal harbourage.

(7) Any vehicle, including recreational vehicles, suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.

(8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.

(9) Disassembled body or chassis parts stored in on or about the vehicle.

(10) Vehicles that do not display a current valid registration and inspection sticker, excluding agricultural and off road vehicles.

NOISE – A sound that is loud, unpleasant or causes a disturbance. Noise may include but is not limited to the unwanted sounds from barking dogs, music, residential gatherings and fireworks.

Sounds constitute Noise when they disturb the peace of residents and / or are outside the hours of 7:00 a.m. and 11:00 p.m.

NON-MOTORIZED VEHICLE – any vehicle that is pulled by a motored vehicle, including but not limited to non-motorized utility trailers, travel trailer, house trailer, slide-in camper, boat trailer and fifth wheel vehicles.

NOTICE OF VIOLATION - a written document issued to a person in violation of a Township Ordinance that specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

NUISANCE - any condition, structure, or improvement that constitutes a danger or potential danger to the health, safety, or welfare of citizens of the Township, or causes a blighting effect in the Township. See also "public nuisance."

PERSON - every natural person, firm, corporation, partnership, association, or institution.

POLICE OFFICER – A patrolman or other officer of the Muhlenberg Township Police Department.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person or corporate entity and including all front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC OFFICER – any authorized inspector, or public official designated by the Township to enforce the Township property maintenance code ordinances, building code ordinances and this Ordinance. A Public Officer does not include a Police Officer. Police Officers may enforce this Ordinance only for specified violations as provided herein.

PUBLIC NUISANCE - any conditions or premises that are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECYCLABLE MATERIAL - material which would otherwise become solid waste, which can be collected, separated, or processed, and returned to the economic mainstream in the form of raw materials or products.

RUBBISH - combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials, as defined by Pennsylvania law.

STORAGE - the containment of any solid waste on a temporary basis in such a manner as not to constitute disposal of such waste.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET - a form issued by a Public Officer to a person who violates a provision of this Ordinance. The violation ticket is an offer by the Township of Muhlenberg extended to a person to settle a violation by paying the fine and correcting the violating condition, in lieu of a citation being issued against the violator under any Ordinance of the Township.

VIOLATOR – a violator shall be any person who violates this Ordinance. A violator may be the owner or the occupant of a property or both the owner and the occupant of a property where the basis of the violation is a condition on or arising from a private property.

WEEDS - shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria:

- (1) Exceed ten (10) inches in height.
- (2) Exhale unpleasant noxious odours or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush.
- (3) May conceal filthy deposits or serve as breeding places for mosquitoes, other insects, or vermin.
- (4) Encroaches onto neighbouring properties by way of leaders or roots without property owners consent.
- (5) May cause a public nuisance.

Weeds shall not include properly cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

YARD - An open space on the same lot with a structure.

Section 2. Violations.

1. Accumulation of Rubbish or Garbage. It shall be unlawful to fail to maintain the exterior of all properties and premises, free from any accumulation of solid waste, rubbish, or garbage.

2. Animal Maintenance and Waste/Feces Clean-Up. People owning, harbouring, or keeping an animal within the Township of Muhlenberg shall not permit any waste matter/feces from the animal to collect and remain on the property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. All waste from animals must be cleaned up on a daily basis. Further, any person walking a pet on a public street, sidewalk, public property or the property of another shall collect all animal waste matter feces immediately. People involved in agriculture may be excluded in this violation at the discretion of the Codes Department.

3. Disposal of Rubbish or Garbage/Dumping. It is unlawful to improperly dispose of rubbish or garbage, or dump or dispose of rubbish or garbage on vacant, unoccupied, or other property. It shall be the responsibility of every owner and/or occupant of property to dispose of rubbish or garbage placed on any property owned by such owner in a proper manner, whether placed there by such owner or any other person.

4. High Weeds, Grass or Plant Growth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches (254 mm). All weeds considered to be noxious by botanical standards shall be prohibited. Cultivated flowers, gardens, trees, and shrubs shall not be included as a violation of this Ordinance.

5. Littering or Scattering Rubbish. No person shall throw, dump, place, sweep, or dispose of any waste, trash, garbage, or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or on any public property.

6. Motor Vehicles. Except as expressly provided otherwise in the Township Zoning Ordinance, it shall be unlawful to store, park, or place any unregistered, uninspected, inoperative, unlicensed, or nuisance motor vehicle on any premises.

7. Outside Placement of Indoor Appliances/Furniture. It is prohibited to store or place any/all appliances or furniture including, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property, except for immediate disposal or for the temporary purpose to perform

active and substantially continuous maintenance on said property. An exception to this violation may include enclosed porches.

8. Fireworks. It shall be prohibited to ignite or discharge fireworks on public or private property without express permission of the owner. It shall be prohibited to ignite or discharge fireworks from or within a motor vehicle or building. It shall be prohibited to ignite or discharge fireworks toward a motor vehicle or building. It shall be prohibited to ignite or discharge fireworks within 150 feet of an occupied structure, whether or not a person is actually present. It shall be prohibited to ignite or discharge fireworks while a person is under the influence of alcohol, a controlled substance, or another drug. Police Officers may enforce this violation.

9. Snow and Ice Removal from Sidewalks. Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Township of Muhlenberg, is required to remove any snow or ice from their sidewalk within twenty-four (24) hours of the cessation of said snow and ice falling. Furthermore, such person must create a three feet wide path, free from any snow or ice, on said sidewalk. Snow removed in compliance herewith shall not be placed onto a public street.

10. Storage Containers for Waste or Trash. The owner of every premises shall employ safe and sanitary containers for waste /trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and odor free at all times.

11. Storing of Recyclables. It shall be the responsibility of the owner of all residential, commercial, and industrial property to ensure storage, collection, and disposal of all recyclables from their property in such a manner not to create a public nuisance.

13. Swimming Pools. Swimming pools shall be maintained in good repair at all times in order to prevent the existence or presence of any water in which mosquito larvae may mature and grow.

14. Non-Motorized Vehicle. It shall be unlawful for any non-motorized vehicle, trailer, travel trailer, house trailer, slide-in camper, boat, fifth wheel vehicle, or any similar non-motorized vehicle to be parked on any publicly dedicated street in the Township of Muhlenberg except for

the purpose of loading and unloading said vehicle for a period of 24 hours or less. Violations of licenced non-motorized vehicles can only be enforced by Police Officers.

15. Noise. It is unlawful to create Noise that meets the definition set forth above and disturbs the peace and continues after one verbal or written notice by a Police Officer. Police Officers may enforce this violation.

16. Graffiti. It shall be unlawful to place graffiti on public sidewalks, walls of buildings or any public property.

Section 3. Authority for Issuance of Violation Ticket.

Upon finding a violation, any Public Officer of the Township of Muhlenberg, may issue violation tickets to the owner and/or occupant of the property at issue or to the individual(s) known to have violated this Ordinance. In addition, where so-provided, and only where so-provided, any Police Officer of the Township of Muhlenberg, may issue violation tickets to the owner and/or occupant of the property at issue or to the individual(s) known to have violated this Ordinance.

Section 4. Enforcement.

1. The provisions of this Ordinance may be enforced by any Public Officer of Muhlenberg Township. In addition, where so-provided, and only where so-provided, the provisions of this Ordinance may be enforced by any Police Officer.
2. Any violation of the provisions of this Ordinance may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to the violator.

Section 5. Service, Fines and Penalties

A violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to

his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

A. Any person who violates this Ordinance may be issued a Violation Ticket. Each Violation Ticket shall bear a fine. Fines shall be set, from time-to-time by resolution of the Board of Commissioners. If the violation is one for which abatement or remediation is required, such violation must be remediated or abated within 48 hours of service of a Violation Ticket to the violator. If the violation is not remediated or abated within said 48-hour-period, an additional fine of like amount may be assessed for each day that the violation continues.

B. Failure of the person to pay a Violation Ticket within five (5) days of having a Violation Ticket served as set forth herein, or failure to abate a violation of this Ordinance within forty-eight (48) hours of issuance of a Violation Ticket, may result in the issuance of a Notice of Violation and a non-traffic citation under any other Ordinance of the Township that has been violated, including the Township's Property Maintenance or Building Code Ordinances.

C. Nothing in this Ordinance shall be deemed to repeal or alter the rights of the Township to enforce its other Ordinances, such as its Property Maintenance or Building Code Ordinances and to issue Notices of Violation and Citations thereunder without first issuing a Violation Ticket under this Ordinance, this Ordinance being intended to be an alternative means of achieving compliance with the Ordinances of the Township and not a primary or exclusive vehicle therefor.

Section 6. Separate Offense.

Following the forty-eight-hour period allowed for abatement or remediation of the violation, each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

Section 7. Abatement of Violation.

1. Any person or business violating this Ordinance, upon issuance of a violation ticket, shall abate or remedy the violation in question. The Township is also authorized to abate or remediate the violation, as provided herein.

2. The Township of Muhlenberg and/or its contractor, per the direction of the Township, reserves the right to abate the violation in question at the expense of the owner. If the Township has affected the abatement of the violation, the total cost thereof to include hourly wages and all items and materials used may be charged to the owner of the property, tenant, or offending party. A bill/invoice will be generated to the violator for payment separate from the violation ticket, which will also be paid separately. The Township reserves the right to charge an additional twenty (20%) percent on all material purchases to cover all miscellaneous expenses, such as wear and tear on equipment. If the offending party fails to pay any abatement charges assessed by the Township, the Township may cause a municipal lien to be placed against the property of the offending party and to assess the costs of imposing such lien in accordance with the Pennsylvania Municipal Claim and Tax Lien Law and the Ordinances of the Township.

3. Contractor Cleanup. The Township reserves the right to direct a contractor to perform the abatement of the violation in question once forty-eight (48) hours passes from the date of issuance of the violation ticket. Should the violation present imminent danger and/or pose a health hazard and/or risk, the Township reserves the right to direct the contractor to perform the abatement immediately. The contractor will submit a bill for their work to the Township of Muhlenberg and the Township will forward these costs to the violator. The Township reserves the right to add a thirty (30%) percent processing fee in addition to the cost of the contractor.

Section 8. Appeals. Any person to whom the Township issues a Violation Ticket who desires to challenge the procedural or substantive validity thereof, may file an appeal of the issuance of such Violation Ticket by filing a written notice of appeal with the Director of Code Services. within five (5) days of the issuance of such Violation Ticket, as set forth below.. If the appeal is decided against the appellant, the appellant shall pay the fine attendant to the Violation Ticket within five (5) days of such decision and shall remediate the violation as provided herein. During the pendency of the appeal, nothing in this Ordinance shall be deemed to restrain the right of the Township to enforce its other Ordnances, such as its Property Maintenance or Building Code Ordinances, and to issue Notices of Violation and Citations thereunder.

A. Administrative Appeal

1. A person in receipt of a violation ticket may appeal to the Director of Codes by filing a request to the Codes Department 5 calendar days of the date of the violation ticket.
2. In order for an appeal to be deemed valid and a hearing date/time to be set, the following must be performed by the alleged violator requesting the appeal within five (5) calendar days of the date that the Quality of Life Ticket was issued:
 - A. All paperwork, including the appropriate appeal form, must be completed and submitted within 5 days after the ticket was issued.
 - B. Payment of fine must be paid in full which will be refunded within 30 calendar days should the alleged violator win their appeal.
3. The appeal hearing will be held before the Director of Codes his/her designee. The Director of Codes may uphold the appeal, deny the appeal, or modify the violation ticket and/or subsequent costs, fines, or penalty amounts as he/she sees appropriate.

B Subsequent Appeals

Any subsequent appeal shall be filed to the Berks County Court of Common Pleas pursuant to 2 Pa C.S. 751 and 752

Section 9. Severability. If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect.

Section 10. Saving Clause. All relevant ordinances, regulations, and policies of the Township of Muhlenberg, Pennsylvania not amended shall remain in full force and effect.

Section 11. Severability. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 12. Effective Date. This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

DRAFT

Ordained and Enacted as an Ordinance of Township of Muhlenberg, Berks County,
Pennsylvania, this ___ Day of _____ 2018.

TOWNSHIP OF MUHLENBERG

By: _____
Chairman

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

Attest: _____