

ORDINANCE NO. 130, 2000

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA PROHIBITING THE THROWING OR DEPOSITING OF LITTER IN PUBLIC PLACES IN THE TOWNSHIP OF TILDEN; REGULATING THE DISTRIBUTION OF COMMERCIAL AND NON-COMMERCIAL HANDBILLS; CONTROLLING THE DEPOSITING OF LITTER ON PRIVATE PREMISES; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania, pursuant to the authority given to it to promote the health and welfare of the citizens of Tilden Township, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

Section 1. Short Title. This Ordinance shall be known and may be cited as the "Tilden Township Anti-litter Ordinance".

Section 2. Definitions. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) Aircraft. Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

(b) Authorized Private Receptacle. A litter storage and collection receptacle as used by the citizens of Tilden Township to convey litter to trash haulers for collection.

(c) Commercial Handbill. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

(1) which advertises for sale any merchandise, products, commodity or thing; or

(2) which directs attention to any business, mercantile or commercial establishment, or any other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(3) which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, however, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind, without a license, where such license is or may be required by any law of the Commonwealth of Pennsylvania, or under any ordinance of the Township; or

(4) which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(d) Garbage. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(e) Litter. Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(f) Newspaper. Any newspaper of general circulation as defined by general law, any newspaper entered with the Postal Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law, and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

(g) Noncommercial Handbill. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(h) Park. A park, playground, recreation center or any other public area in the Township, owned or used by the Township, and devoted to active or passive recreation.

(i) Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

(j) Private Premises. Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

(k) Public Place. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

(l) Refuse. All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

(m) Rubbish. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

(n) Township. The Township of Tilden, Berks County, Pennsylvania.

(o) Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

Section 3. Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Township except in public receptacles or in authorized private receptacles for collection.

Section 4. Placement of Litter in Receptacles so as to Prevent Scattering. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section 5. Sweeping Litter into Gutters, Streets and Public Places Prohibited. No person shall sweep into or deposit in any gutter, street or other public place within the Township the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep any sidewalk in front of their premises free of litter.

Section 6. Businesses' Duty to Keep Sidewalks Free of Litter. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Township the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Township shall keep any sidewalk in front of their business premises free of litter.

Section 7. Litter Thrown by Persons in Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Township or upon private property.

Section 8. Truck Loads Causing Litter. No person shall drive or move any truck or other vehicle within the Township unless such vehicle is constructed or loaded as to prevent any load, contents or litter from being deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the Township, the wheels or tires of which carry

onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

Section 9. Litter in Parks. No person shall throw or deposit litter in any park within the Township except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

Section 10. Litter in Lakes and Fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the Township.

Section 11. Throwing or Distributing Commercial Handbills in Public Places. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the Township, nor shall any person hand out, distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the Township for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

Section 12. Placing Commercial and Noncommercial Handbills on Vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

Section 13. Depositing Commercial and Noncommercial Handbills on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are uninhabited or vacant.

Section 14. Prohibition of Distribution of Handbills Where Properly Posted. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed upon said premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing", "No Peddlers or Agents", "No Advertisements" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

Section 15. Distribution of Commercial and Noncommercial Handbills at Inhabited Private Premises; Exemption for Mail and Newspapers. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this Ordinance, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private

premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal laws or regulations.

The provisions of this section shall not apply to the distribution of mail by the United States nor to newspapers (as defined herein).

Section 16. Dropping Litter from Aircraft. No person in an aircraft shall throw out, drop or deposit within the Township any litter, handbill or any other object.

Section 17. Posting Notices Prohibited. No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamp post, public utility pole, shade tree or upon any public structure or building except as may be authorized or required by law.

Section 18. Litter on Occupied Private Property. No person shall throw or deposit litter on any occupied private property within the Township, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 19. Owner to Maintain Premises Free of Litter. The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 20. Litter on Vacant Lots. No person shall throw or deposit litter on any open or vacant private property within the Township whether owned by such person or not.

Section 21. Clearing of Litter from Open Private Property by the Township.

(a) Notice to Remove. The Township Supervisors are hereby authorized and empowered to notify the owner of any open or vacant private property within the Township or the agent of such property to dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered or certified mail, return receipt requested, postage prepaid, addressed to said owner at his last known address.

(b) Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within ten (10) days after receipt of written notice provided for in subsection (a) above, or within ten (10) days after the date of such notice in the event the same is returned to the Township Supervisors because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the Township Supervisors are hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the Township.

(c) Charge for Removal. When the Township has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of six percent (6%) per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property and forwarded to said owner at his last known address by registered or certified mail, return receipt requested, postage prepaid.

(d) Recorded Statement Constitutes Lien. Where the full amount due to the Township is not paid by such owner within ten (10) days after the disposal of such litter, as provided for in subsections (a) and (b) above, then and in that case the Township Supervisors shall cause to be recorded in the Office of the Prothonotary of Berks County in Reading, Pennsylvania a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which the work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Sworn statements recorded in accordance with all provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.

Section 22. Penalties. In addition to any other remedy provided herein, any person violating any of the provisions of this Ordinance shall be deemed guilty of a summary offense and upon conviction thereof shall be fined in an amount not to exceed Six Hundred Dollars (\$600.00) or be imprisoned in the Berks County Prison for a period not exceeding thirty (30) days, or both; provided, however, that with the consent of the District Justice and the consent of the Defendant who has either pleaded guilty or been found guilty of a violation of this Ordinance, said Defendant may be ordered in lieu of other sentences to perform thirty (30) hours of volunteer service for the Township removing litter from the roads and designated property within the Township at such time and place and in such manner as directed by the Township Board of Supervisors. In the event that the Defendant shall have opted to perform the voluntary community service as immediately aforementioned and, subsequent thereto, failed to perform such service, said person shall be summoned to appear again before the District Justice and be sentenced under the provisions of this section (i.e., he shall receive a fine not to exceed Six Hundred Dollars (\$600.00) or be imprisoned in Berks County Prison for a period not exceeding thirty (30) days, or both). Each day that a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 23. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 24. Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 25. Effective Date. This Ordinance shall take effect five (5) days after its enactment.

DULY ENACTED AND ORDAINED this 1st day of August, 2000.

TILDEN TOWNSHIP
BOARD OF SUPERVISORS

R. W. Borky

Marilyn K. Nelson


David J. Smith

Attest: Anna M. Shollenberger
Anna M. Shollenberger

CERTIFICATION

I hereby certify that the foregoing ordinance was advertised on July 12, 2000, in the Reading-Eagle Times, a newspaper of general circulation in the Township of Tilden, Berks County, PA and was duly enacted and approved as set forth at a regular meeting of the Township of Tilden on August 1, 2000 at 7:00 P.M., prevailing time, in the Township Municipal Building, 874 Hex Highway, Hamburg, Berks County, PA.

ATTEST:


Anna M. Shollenberger, CGS, CMC
Secretary