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ORDINANCE OF 2021

AN ORDINANCE OF SWOYERSVILLE BOROUGH

FOR THE REGULATION OF DUMPSTERS

The Swoyersville Council hereby ordains:

Section I This may be cited as “The Waste Dumpster Ordinance of the Borough of Swoyersville” hereinafter referred to as the “Dumpster Ordinance.”

Section II The provisions of the Dumpster Ordinance and rules and regulations interpreting such provisions shall become effective as hereinafter specified.

Section III **Purpose and Scope**

The Dumpster Ordinance is hereby declared to be remedial and shall be constructed to secure the beneficial interests and purposes thereof, which are public safety, health and welfare, by providing a system of specifications, regulations and licensing to ensure that the location of waste dumpsters within a public right-of-way does not impede or endanger the free flow of pedestrian or vehicular traffic within the municipality; it is the intent and purpose to further protect the health, safety and welfare of the general public of the municipality.

Section IV **Definitions; word usage**

A. Interchangeability. Words used in the present tense include the future; words used in the masculine gender include the female and neuter; and the singular number includes the plural and the plural the singular.

B. Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

C. Definitions. As used in this Article, the following terms shall have the meaning indicated:

CARTWAY

That portion of the right-of-way designated for vehicular use. This shall include both opened and unopened streets.

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CONSTRUCTION WASTE DUMPSTER

A unit designed for the deposit of waste materials at building construction, repair or demolition sites, commonly located on a temporary basis on a public right-of-way abutting the site and transportable to and from the site for purposes of disposal of its contents by means of a carry vehicle.

GARBAGE

Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

NONCONSTRUCTION WASTE DUMPSTER

A unit designed for the deposit of all types of rubbish materials, excluding garbage, generated at sites other than building construction, repair or demolition.

PERSON

Any individual, firm or partnership, association or corporation.

PUBLIC RIGHT-OF-WAY

The width of a strip of land between property lines set aside for public use or ownership as a street, alley crosswalk, easement or other facility.

RUBBISH

Nonputrescible solid waste consisting of both combustible and noncombustible waste such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar items.

SIDEWALK

That portion of the sidewalk area which is paved for pedestrian use.

SIDEWALK AREA

That area extending from the curb line to the property line which is designated by the Municipal Engineer's office for pedestrian use.

TREELAWN

That portion of the tree lawn area which is grass and/or tree lined

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TREELAWN AREA

That area extending from the curb line to the sidewalk area which is designated by the Municipal Engineer's office for grass and/or trees.

Section V

PERMIT REQUIRED

Regulations applicable to the permit requirements for the placement of construction or non-construction waste dumpsters upon a public right-of-way are as follows:

- A. It shall be unlawful for any person to place upon, cause to be placed upon or permit to remain upon a public right-of-way a construction or non-construction waste dumpster without first filing with the Borough Office an application, in writing, and obtaining a formal permit. The duration of such permit shall be stated thereon, and the continued validity of such permit shall be contingent upon full compliance with the regulations set forth in this Ordinance.
- B. An application for a permit shall be filed at the Borough Office by the property owner or a licensed contractor employed in their respective field by the property owner in connection with the placement of a construction or non-construction waste dumpster. An application must be signed by the property owner and, in the case of a permit being issued to a licensed contractor employed by the property owner, an application permit must also be signed by the contractor.
- C. All permits issued shall cover only the work set forth in the permit application, however, in the event that it is necessary to replace a construction or non-construction waste dumpster upon a public right-of-way prior to the completion of said work, additional permits shall not be required.
- D. The placement of only one dumpster per job site upon a public right-of-way shall be permitted at any one time.
- E. No permits shall be issued by the Code Enforcement Officer or Police, if in his/her opinion, the location and placement of this construction or non-construction waste dumpster will create a safety hazard to the use of the sidewalk area, tree lawn area or cartway by pedestrians or vehicles.
- F. Upon the issuance of a construction or non-construction dumpster permit by the Code Enforcement Officer or Police, the permit must be displayed in a conspicuous place in front of the premises plainly visible to passersby and kept there for the duration of the permit. The applicant is responsible for the maintenance of this permit and, should it be destroyed or removed, must immediately obtain another copy.

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Section VI **Permit Fee**

A fee of \$25 shall be paid for each construction or non-construction waste dumpster permit issued by the Borough.

Section VII **Time Limitation for construction waste dumpsters**

A construction waste dumpster shall be permitted to be placed upon a public right-of-way for a maximum period of 10 days during building construction, repair or demolition projects for which a building permit was secured from the Borough. The Code Enforcement Officer or Police for cause shown (i.e. such as inclement weather conditions which prohibit or delay work or other valid reasons of similar nature) shall have the discretion to approve a time extension for a construction waste dumpster; however, under no circumstances shall a construction waste dumpster be permitted to be placed upon a public right-of-way exceeding 45 days. Also, in no event shall a full waste dumpster be allowed to remain in the public right-of-way, notwithstanding the time period specified above, for more than 72 hours.

Section VIII **Time limitation for non-construction waste dumpsters**

A non-construction waste dumpster shall be permitted to be placed upon a public right-of-way for a maximum of five consecutive days. The Code Enforcement Officer or Police for cause shown (i.e. such as inclement weather conditions which prohibit or delay work or other valid reasons of similar nature) shall have the discretion to approve a time extension for a non-construction waste dumpster: under no circumstances shall a non-construction waste dumpster be permitted to be placed upon a public right-of-way exceeding 30 days. Also, in no event shall a full non-construction waste dumpster be allowed to remain in the public right-of-way notwithstanding the time period specified above, for more than 72 hours.

Section IX **Placement of Dumpsters**

Regulations applicable to the placement of construction or non-construction waste dumpsters upon a public right-of-way are as follows:

- A. The placement of a construction or non-construction waste dumpster upon a public right-of-way must be temporary in nature and must be one that can be readily removed from the right-of-way.
- B. A construction or non-construction waste dumpster upon a public right-of-way shall not extend into a cartway, nor impede or endanger the free flow of pedestrian or vehicular traffic.
- C. A construction or non-construction waste dumpster placed upon a public right-of-way shall not be placed within 20 feet of a crosswalk at an intersection.

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- D. A construction or non-construction waste dumpster placed upon a public right-of-way shall not be placed within 15 feet of a fire hydrant.
- E. A construction or non-construction waste dumpster placed upon a public right-of-way shall bear the owner's name and telephone number displayed in a conspicuous place plainly visible to passerby and kept there for the duration of the permit.
- F. A construction or non-construction waste dumpster placed upon a public right-of-way shall bear reflective markings in sufficient positions and with sufficient reflective capacity to provide reasonable warning to approaching nighttime traffic of its location, and a standard barricade light shall be placed in operation on the dumpster side nearest the travel lane of the public right-of-way from sunset to sunrise.
- G. No public right-of-way shall be closed for the purpose of location or utilization of a construction or non-construction waste dumpster.
- H. The location and utilization of a construction or non-construction waste dumpster upon a public right-of-way shall not be such as to constitute a safety hazard to person or property.
- I. The placement of a construction or non-construction waste dumpster shall not extend into the sidewalk area any more than one-third (1/3) the width of the sidewalk area, but in no case more than three (3) feet.
- J. The placement of a construction or non-construction waste dumpster shall not extend into the tree lawn area unless approved by the Code Enforcement Officer or Police.
- K. The location and utilization of a construction or non-construction waste dumpster placed upon a public right-of-way shall be in compliance with all other federal, state and local statutes, rules and regulations applicable thereto.

Section X **Prohibitive uses for non-construction waste dumpsters**

A non-construction waste dumpster shall not be permitted to be placed upon a public right-of-way for the disposal of garbage.

Section XI: **Licenses**

A. Every person engaged in the business of construction and/or non-construction waste dumpsters shall before engaging in such operation obtain a license therefore from the Borough of Swoyersville after submission of the following documents:

- (1) A certificate of insurance, naming the Borough of Swoyersville as certificate holder, establishing that said hauling contractor is currently covered by a reputable insurance company acceptable to the Borough of Swoyersville covering said hauling contractor in the amount of not less than Three hundred thousand (\$300,000.00) dollars being single limit or split limit for bodily injury and property damage. Said certificate shall be continuous coverage. In the event that said insurance is cancelled

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the Borough shall be notified, in writing within Thirty (30) working days by said insurance company.

- (2) A certificate of worker's compensation insurance, naming the Borough of Swoyersville as certificate holder. In the event that a hauling contractor is not obligated to maintain worker's compensation insurance, he shall be required to file a contractor affidavit with the Borough, affirming under oath that he is not obligated to maintain worker's compensation insurance.
- (3) Their federal or state employer identification number; and
- (4) An indemnity agreement in a form acceptable by the Borough Solicitor, promising to indemnify, save harmless and defend the Borough of Swoyersville, 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 attorney's fees, for or on account of any injury, 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 the waste dumpster in the public right-of-way. A license shall not be transferable or assignable. Every person licensed under this Ordinance shall give immediate notice of any change in his home or business address.

B. Every person engaged in the business of construction and/or non-construction waste dumpsters shall before engaging in such occupation pay an annual license fee of One hundred (\$100.00) dollars. Said license shall be valid from January 1 through December 31 of each year. The license fee shall not be prorated.

C. All construction and/or non construction waste dumpster hauling contractor licenses shall be issued by the Borough and shall be valid for one licensing year and renewed annually. Prior to renewing a license, a hauling contractor must submit the following documents to the Borough:

- (1) A certificate of insurance naming the Borough of Swoyersville establishing that said hauling contractor is currently covered by a reputable insurance company acceptable to the Borough of Swoyersville covering said hauling contractor in the amount of not less than Three hundred thousand (\$300,000.00) dollars being single limit or split limit for bodily and property damage. Said certificate shall be continuous coverage. In the event that the insurance is canceled, the Borough shall be notified, in writing, within Thirty (30) working days by said insurance company.
- (2) A certificate of worker's compensation insurance, naming the Borough of Swoyersville as certificate holder. In the event that a hauling contractor is not obligated to maintain worker's compensation insurance, he shall be required to

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file a contractor affidavit with the Borough, affirming under oath that he is not obligated to maintain worker's compensation insurance; and

(3) Their federal or state employer identification number.

D. In the event that a licensed construction and /or non-construction waste dumpster hauling contractor fails to renew his license within 20 business days after the date the license has expired, the hauling contractor will be required to apply for a new license in order to operate under this Ordinance.

E. Any construction and/or non-construction waste dumpster hauling contractor's license issued to any person may be suspended by the Code Enforcement Officer or Police, if after a thorough and proper investigation, it is determined that:

(1) Said license was partially or wholly procured by or through non-disclosure, misstatement or misrepresentation.

(2) A previous imposed penalty shall not have met with full compliance; or

(3) The holder of said license has repeatedly and/or willfully violated any of the provisions of this Ordinance. "Repeated Violation" is hereby defined as a minimum of three separate offenses within a period of five years under this Ordinance for which the licensee or offender has either pleaded guilty or has been found guilty by a District Justice or other Court of competent jurisdiction.

(4) The Borough, prior to invoking a suspension of a license, shall first cause to be served upon said licensee, by certified or registered mail, a written notice of suspension or revocation of license, as the case may be, setting forth in specific terms and language the nature of the repeated violations, the times thereof and places of occurrence.

(5) On a first offense, a hauling contractor's license shall be suspended for a period of one to three months. On a second offense, a hauling contractor's license shall be suspended for a mandatory six months. A third offense shall constitute an immediate revocation of a hauling contractor's license.

(6) If, during the time of suspension, a hauling contractor's license is eligible for renewal, said contractor will be exempt from meeting the license renewal provisions as defined in Subsection B above for the entire time period said license is suspended. Within 30 working days from the date the suspension is removed by the Borough, the license renewal provisions as defined in subsection C above shall apply. In the event that the hauling contractor fails to renew his license within 30

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working days from the date the suspension was removed, the provisions out-lined in subsection D shall apply.

F. Revocation of License. Any construction and/or non-construction waste dumpster hauling contractor's license issues to any person may be immediately revoked by the Borough if, after a thorough and proper investigation, it is determined that:

- (1) The holder of said license has willfully or negligently damaged or caused to be damaged the municipality's public right-of-way.
- (2) The holder of said license has willfully or negligently placed a construction waste dumpster in a public right-of-way which has created a dangerous or unsafe condition which poses a threat to the safety and welfare of pedestrian and/or vehicular traffic.
- (3) The holder of said license has repeatedly and/or willfully ignored stop-work order(s) issued by the Code Enforcement Officer or Police.
- (4) Any hauling contractor's license which has been revoked by the Borough shall not be reactivated.

G. Use of license by another prohibited. No person licensed under these provisions shall allow a permit to be issued in his or its own name for use by a person not licensed as required herein to place construction or non-construction waste dumpsters within the Borough's public right-of-way, under penalty of forfeiture of his or its license.

Section XII SAFETY HAZARD

A. Whenever the placement of a construction or non-construction waste dumpster shall have been declared a safety hazard to the use of the sidewalk area, tree lawn area or cartway by pedestrians or vehicles by the Code Enforcement Officer or Police shall serve or cause to be served upon the owner or other person who may have a vested or contingent interest in said waste dumpster a written notice describing the unsafe or hazardous condition and ordering that the same be made safe and secure or removed within forty-eight (48) hours after notice has been issued relative to the unsafe or hazardous condition.

B. If the person to whom such notice and order is addressed cannot be found after diligent search, then such notice and order shall be sent by registered mail to the last known address of such person; and a copy of such notice shall be posted in a conspicuous place on the construction or non-construction waste dumpster to which it relates. Such mailing and posting shall be deemed adequate service.

C. If the person served with a notice to make safe and secure or remove the construction or non-construction waste dumpster should fail, within the time frame specified by the Code Enforcement Officer or Police to comply with the requirements thereof, the Code Enforcement Officer, Police or designee, when authorized by Swoyersville Borough Council, may have said waste dumpster

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removed from the public right-of-way. Any costs incurred shall be paid by (by the Borough) on certification by the Code Enforcement Officer, Police or a Designee.

D. The Borough or Borough Solicitor or other prosecuting authority shall institute proper actions against the owner of the construction or non-construction waste dumpster for the recovery of costs incurred by the Borough in the performance of having said waste dumpster removed from the public right-of-way.

Section XIII VIOLATIONS AND PENALTIES

A. Any person who shall violate any of the provisions of this Ordinance shall after having been served written notice shall be liable to a fine of not less than Three hundred (\$300.00) dollars for each offense, and not more than One Thousand (\$1000.00) dollars for each offense. Each day that said violation of unsafe condition shall continue shall constitute a separate offense.

B. The owner of a building, structure or premises where the violation of this Ordinance shall be placed or shall exist, and the contractor employed in connection therewith and who may have assisted in the commission of such violation, shall each be guilty of a separate offense and, upon conviction thereof, shall be liable to a fine of not less than Three hundred (\$300.00) dollars per each offense and not more than One thousand (\$1000.00) dollars for each offense. Each day that said violation or unsafe condition shall continue shall constitute a separate offense.

Section XIV SEVERABILITY

The provisions of this Ordinance are severable. If any part of this Ordinance is declared to be unconstitutional, illegal, or invalid, the validity of the remaining provisions shall be unaffected thereby.

Section XV REPEALER

All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**PASSED BY SWOYERSVILLE BOROUGH COUNCIL ON THE _____ DAY OF
FEBRUARY, 2021.**

ATTEST:

CHAIRMAN OF SWOYERSVILLE BOROUGH COUNCIL

BOROUGH SECRETARY

MAYOR

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SWOYERSVILLE

DUMPSTER PERMIT

**THIS PERMIT IS FOR THE APPLICANT TO PLACE A
DUMPSTER ON THE STREET, "RIGHT OF WAY"**

**REMOVAL UPON COMPLETION OF USE OF DUMPSTER IS
REQUIRED UPON COMPLETION OF USE.**

FEES MADE PAYABLE TO SWOYERSVILLE BOROUGH

(\$25.00)

Date _____

BOROUGH REPRESENTATIVE _____