

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 167

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP
OF UPPER SAUCON SETTING HOURS DURING WHICH COLLECTORS OF
SOLID WASTE AND RECYCLABLES MAY OPERATE IN TOWNSHIP
RESIDENTIAL ZONING DISTRICTS**

LEGISLATIVE HISTORY

WHEREAS, the Board of Supervisors (hereinafter, "Supervisors") of Upper Saucon Township (hereinafter, "Township") adopted Ordinance No. 75, dated February 2, 1986, regulating the collection, storage, transportation, removal, dumping, deposit and disposal of municipal solid waste; and

WHEREAS, the Supervisors adopted Ordinance No. 101, dated August 27, 1990, regulating the collection of recyclable materials; and

WHEREAS, these Ordinances authorize the Supervisors to regulate the collection of solid waste and recyclable materials in the Township; and

WHEREAS, Section 1529 of the Second Class Township Code authorizes the Supervisors to abate nuisances within the Township; and

WHEREAS, the Township does not provide waste collection and removal services for its residents and commercial establishments, thus requiring that they contract directly with various collectors for the collection and removal of municipal solid waste and recyclables; and

WHEREAS, individual collectors provide collection services at various times during the day from residential and commercial establishments including the early morning hours; and

WHEREAS, the Supervisors find that collections during the late evening and early morning hours sometimes create noise and disruption in residential neighborhoods and as such create a nuisance; and

WHEREAS, the Supervisors find that it is appropriate and consistent with the public health, safety and welfare to place reasonable time restrictions on the collection of municipal solid waste and recyclables in primarily residential zoning districts; and

WHEREAS, the Supervisors desire to establish a period of time during which collection services may be performed in such zoning districts so as to enhance the quality of life and therefore the public health, safety and welfare of Township residents.

NOW, THEREFORE, the Supervisors of Upper Saucon Township hereby enact and ordain the following:

1. Definitions. The following words and phrases when used in this Ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section:

a. "Collector." Any person who collects and transports municipal waste in the Township for ultimate disposal outside the Township.

b. "Residential Zoning Districts." Those zoning districts established in the Upper Saucon Township Zoning Ordinance of 2009, as the same may be amended from time-to-time, as follows: South Mountain Conservation Zone, Agricultural Preservation Zone, Open Space Residential Zone, Rural Residential Zone, Suburban Residential Zone, Multi-Family Residential Zone and Age Qualified Community Overlay Zones.

c. "Waste." Any waste and recyclables / recyclable materials as defined in Ordinance Nos. 75 and 101.

2. Scope. This Ordinance shall apply to the collection of Waste within all Residential Zoning Districts in Upper Saucon Township.

3. Collection Hours. Except as otherwise authorized by this Ordinance, no Collector of Waste shall provide or engage in collection services between the hours of 9:00 p.m. and 5:30 a.m. (prevailing time) in Township Residential Zoning Districts.

4. Waiver.

a. Any Collector who desires to collect waste at a property or properties located within one or more Residential Zoning Districts outside of the collection hours specified in Section 3 shall apply to the Township Manager for a waiver. The waiver request shall be made in writing and shall state the following:

(1). A description of the reason for the request;

(2). Identification of each property to be served;

(3). The reason(s) why each property cannot be served during the hours established by this Ordinance; and

(4). Any other relevant information which the Collector desires to submit or which the Township requires to be provided.

b. The following shall constitute grounds for waiver:

(1). An existing or prospective customer, not a residential dwelling unit, requires collection during prohibited hours as a result of verifiable business requirements of the customer;

(2). There exist verifiable emergency circumstances which require collection during prohibited hours and are expected to continue for a definable period of time;

(3). There exists an anticipated emergency situation based upon verifiable information which requires collection during prohibited hours; or

(4). Imposition of the prohibited hours will result in a significant financial hardship to the Collector which cannot be avoided through the use or exercise of reasonable business alternatives.

c. In addition to b. above, a waiver shall be consistent with the public health, safety and general welfare.

d. If the Township Manager grants a waiver, he or she shall issue a permit. The permit shall be valid for the period of time set forth therein; provided that it shall not exceed one (1) year. Upon expiration, the permit shall be null and void. Permits may be renewed, subject to the criteria set forth in this Section.

e. If the Township Manager denies the request for a waiver, or a renewal thereof, he or she shall do so in writing. The Collector may appeal the denial and request a hearing before the Supervisors. The appeal shall be filed in the office of the Township Manager no later than thirty (30) days following the date of the letter denying the waiver or renewal request.

f. All appeals from the denial of, or refusal to renew, a permit shall be governed by the Pennsylvania Local Agency Law, 2 Pa.C.S.A. Section 105, et. seq.

g. The Collector shall bear the burden of proof of entitlement to a waiver.

5. Penalty. Any person who violates a provision of this Ordinance shall, in an action brought before a district justice and upon conviction thereof, be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each and every offense, and in default of payment, imprisonment for a term not exceeding thirty (30) days. Each instance of collection for which a violation of this Ordinance is found to occur shall constitute a new and separate offense.

6. Other Remedies. No provision of this Ordinance shall preclude the Township from pursuing all other, available legal remedies for violation hereof, including but not limited to enforcement by an action in equity in the Court of Common Pleas of Lehigh County.

7. Repealer. All ordinances or parts of ordinances inconsistent with the provisions hereof are hereby repealed.

8. Savings Clause. To the extent that any word, portion or provision of the text hereof is found by any court of competent jurisdiction to be invalid or void on constitutional or other grounds, such word, phrase, portion or provision shall, if possible, be deemed to be repealed and those valid portions of the text shall remain in full force and effect if the same can be accomplished without the structure of the ordinance having been destroyed by the elimination of that word, phrase, portion or provision found to be invalid or void.

9. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

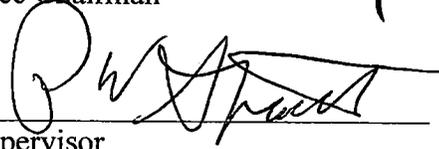
DULY ENACTED AND ORDAINED this 13th day of **MAY, 2019**, by the Board of Supervisors of Upper Saucon Township of Lehigh County, Pennsylvania, by a lawful session duly assembled.



Chairman



Vice Chairman



Supervisor



Supervisor

Supervisor

ATTEST:



Secretary