ORDINANCE NO. 213

AN ORDINANCE OF THE TOWNSHIP OF MAIDENCREEK, BERKS COUNTY, AMENDING ORDINANCE NO. 162 TO FURTHER REGULATE MUNICIPAL WASTE DISPOSAL BY MANDATING: THAT ALL TOWNSHIP RESIDENTS CONTRACT WITH A TRASH HAULER, THAT PROOF OF THE CONTRACT WILL BE REQUIRED, DUTIES OF LICENSED TRASH HAULERS; AND ADDING DEFINITIONS FOR LICENSED HAULER AND MUNICIPAL WASTE

WHEREAS, the Board of Supervisors of Maidencreek Township enacted Ordinance No. 162 to, among other things, prohibit the accumulation of garbage and trash within Maidencreek Township and regulate the placement and removal of garbage containers along public or private roadways; and

WHEREAS, Act 140 of 2006 requires, among other things, that Performance Grant applicants meet certain state mandated performance requirements; and

WHEREAS, Maidencreek Township has applied for a Performance Grant for the calendar year 2005 and has received a response that the Township has not met every requirement; and

WHEREAS, in order to fully comply with the performance requirements, the Township must enact an Ordinance mandating that all residents of Maidencreek Township contract with a waste hauler; and

WHEREAS, it is the intent of the Board of Supervisors to amend Ordinance No. 162 to further regulate municipal waste disposal in accordance with Act 140 to mandate that Maidencreek Township residents contract with a waste hauler in order to meet the performance requirements;

NOW THEREFORE, BE IT ORDAINED, by the Board of Supervisors of Maidencreek Township, Berks County, Pennsylvania that:

Section 1. Addition of a New Section II-Definitions and Renumbering Existing Sections

Section 1 of Maidencreek Township Ordinance No. 162 is hereby amended by adding a new Section II entitled Definitions, and renumbering existing Section II to Section III; and existing Section III to Section IV:

"Section II-Definitions:

Licensed Hauler shall mean any owner of a waste transportation vehicle licensed under Pennsylvania Act 90.

Owner shall mean any person, agent, operator, firm, or corporation having a legal or equitable interest in real estate in the Township of Maidencreek or otherwise having control of the property, including guardian of an estate of such person and the executor or administrator of the estate of such person.

Municipal Waste shall mean garbage, refuse, industrial lunchroom or office waste and other material; including solid waste, liquid or semisolid, or containing gaseous materials resulting from the operations of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act of the Commonwealth of Pennsylvania from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant or air pollution control facilities.

Person shall mean any individual, partnership, corporation, limited liability entity, association, institution, cooperative or State Agency or institution, or any other legal entity whatsoever, including all landowners and/or occupants of land and/or buildings existing and/or functioning within the Township of Maidencreek.

Premises shall mean a lot, plot or parcel of land, including any structures thereon.

Tenant shall mean person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Township shall mean the Township of Maidencreek, Berks County, PA."

Section 2. Revision to Existing Section II, now Section III, by Adding Subsection 2 C

Section 1 of Maidencreek Township Ordinance No. 162 is hereby revised by adding to existing Section II, now Section III, subsection 2. C, which will read as follows;

"C. Prior to trash pick up, the owner of every dwelling shall store their trash in such a way that it does not scatter, attract vectors, accumulate water or cause odors."

Section 3. Revision to Existing Section II, now section III, by the Addition of Subsection 3

Section 1 of Maidencreek Township Ordinance No. 162 is hereby revised by adding to existing Section II, now Section III, subsection 3, which will read as follows;

"3. Removal By Licensed Haulers

A. Every owner in Maidencreek Township shall contract with an individual, entity or firm which is a licensed hauler by the Commonwealth of Pennsylvania to have all the municipal waste generated on the premises by any of the occupants of the premises removed and deposited in a permitted landfill on a weekly basis or more often.

B. Whenever requested by Maidencreek Township, within 72 hours of the request, the owner of any real estate within the Township shall present proof adequate to the Township to demonstrate that the owner has a current contract with a licensed hauler to dispose of Municipal Waste generated on the premises on a weekly basis or more often.

C. Any hauler picking up municipal waste in Maidencreek Township shall be required to advise the Township in writing within 72 hours after request from the Township as to

whether an owner has a current contract for municipal waste disposal from his premises within the Township. All licensed haulers shall cooperate with the Township designee in providing information in the event that an action is instituted to enforce the terms and conditions of this article."

Section 4. **Replacing Existing Section III, now Section IV, by Providing a New Section IV**

Section 1 of Maidencreek Township Ordinance No. 162 is hereby revised by deleting the existing section III, now section IV, Civil Enforcement Penalties, and replacing it with a new section IV as follows:

"Section IV. Violation and Penalty

1. Any person who fails to comply with the provisions of this Ordinance or violates any of the provisions set forth above commits a summary offense and shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand Dollars ($1,000.00) plus court costs for each such violation hereof. This ordinance may also be enforced by civil enforcement proceedings and in that event, offenders shall be liable for a civil enforcement fine of not more than Six Hundred Dollars ($600.00) per violation. Whether, enforced civilly or through summary proceedings, or both, each day a violation continues shall constitute a separate offense pursuant hereto.

2. No Penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies."

Section 5. **Savings Clause**

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality, or unconstitutionality shall not

effect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the Township that such remainder shall remain in force.

Section 6. Repealer

All prior ordinances and parts of ordinances to the extent, but only to the extent, that they are contrary to the provisions of this ordinance are hereby repealed upon the effective date of this ordinance.

Section 7. Effective Date

This Ordinance shall become effective five days after enactment thereof.

ENACTED AND ORDAINED into law by the Township of Maidencreek Board of Supervisors, Berks County, Pennsylvania, this 12th day of June, 2008.

MAIDENCREEK TOWNSHIP
BOARD OF SUPERVISORS

By: _____
Claude Beaver, Chairman

_____
Roy Timpe, Supervisor

_____
Joseph Rudderow, III, Supervisor

Attest:

_____
Diane Hollenbach, Secretary