

ORDINANCE NO. 1 OF 2015

AN ORDINANCE OF THE BOROUGH OF PLYMOUTH, COUNTY OF LUZERNE, COMMONWEALTH OF PENNSYLVANIA, REGULATING THE PLACEMENT OF WASTE DUMPSTERS AND PORTABLE STORAGE UNITS

WHEREAS, the purpose of this ordinance is to promote the public health, safety and welfare and to eliminate public health hazards, and environmental pollution;

WHEREAS, the Borough needs to license and regulate dumpsters and portable storage pods to ensure that the location in a public right-of-way does not impede or endanger the free flow of pedestrian or vehicular traffic within the Borough;

NOW THEREFORE, be it resolved and ordained by the Plymouth Borough Council as follows:

Definitions; words 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 contexts implies.

C. Definition. 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.

CONSTRUCTION WASTE DUMPSTER- A unit designed for the deposit of waste materials at buildings.

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 the 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.

NON-CONSTRUCTION WASTE DUMPSTER- A unit designed for the deposit of all types of rubbish materials, excluding garbage, generated at site other than building construction, repair or demolition.

PERSON- Any individual, firm or partnership, association or corporation.

PORTABLE ON-DEMAND STORAGE UNITS OR PODS –Portable containers that are placed on or in front of a property for purpose of storing, loading, or unloading furniture, clothing or other personal or household belongings as part of the process of renovation or moving, or on site storage in the aftermath of the property being affected by a natural disaster.

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- Non-putrescible 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 sidewalk area which is paved for pedestrian use.

SIDEWALK AREA- That portion of the tree lawn area which is grass and/or tree lined.

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

PERMIT REQUIRED AND FEE

Regulations applicable to permit requirements for placement of construction or non-construction waste dumpsters or portable storage units (pods) upon a public right-of-way and sidewalks are as follows:

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 or portable storage unit (pod) without first filing with the Code Enforcement Officer an application, in writing, and obtaining a formal permit shall be contingent upon full compliance with the regulations set forth in this article.

An application for a permit shall be filed with the Office of Code Enforcement by the property owner or licensed contractor employed in their respective field by the property owner in connection with the placement of a construction or non-construction waste dumpster or portable storage unit (pod). An application must be signed by the property owner and, in 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.

Prior to the issuance of any permit a non-refundable fee of \$15.00 shall accompany all applications required under this ordinance. This fee can be altered or changed from time to time by a Resolution of the Borough Council.

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 or portable storage unit (pod) upon a public right-of-way prior to the completion of said work, additional permits shall not be required.

The placement of only one (1) dumpster per job site or portable storage unit (pod) upon a public right-of-way or sidewalk shall be permitted at any one (1) time.

No permits shall be issued by the Code Enforcement Officer if, in his opinion, the location and placement of this construction or non-construction waste dumpster or portable storage unit (pod) will create a safety hazard to the use of the sidewalk area, tree lawn area or cartway by pedestrian or vehicles.

Upon the issuance of a construction or non-construction dumpster or portable storage unit (pod) permit by Code Enforcement Officer, 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.

TIME LIMITATION for construction waste dumpster or portable storage unit (pod)

A construction waste dumpster or portable storage unit (pod) shall be permitted to be placed upon a public right-of-way for a maximum period of ten (10) days during building construction, repair or demolition projects for which a building permit was secured from the Office of Code Enforcement or storage of personal belongings. The Code Enforcement Officer for cause shown (i.e. such as inclement weather conditions which prohibit or delay work or other valid reason of similar nature) shall have the discretion to approve a time extension for a construction waste dumpster or portable storage unit (pod); however, under no circumstances shall a construction waste dumpster or portable storage unit (pod) be permitted to be placed upon a public right-of-way exceeding forty-five (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 seventy-two (72) hours.

TIME LIMITATION for non-construction waste dumpster or portable storage unit (pod)

A non-construction waste dumpster or portable storage unit (pod) shall be permitted to be placed upon a public right-of-way for a maximum of five (5) consecutive days. The Code Enforcement Officer for cause shown (i.e. such as inclement weather conditions which prohibit or delay work or other valid reasons of similar) shall have the discretion to approve the time extension for a non-construction waste dumpster or portable storage unit (pod); however, under

no circumstances shall a non-construction waste dumpster be permitted to be placed upon a public right-of-way exceeding thirty (30) days. Also, in no event shall a full non-construction waste dumpster or portable storage unit (pod) be allowed to remain in the public right-of-way, notwithstanding the time period specified above, for more than seventy-two (72) hours.

PLACEMENT OF DUMPSTERS OR PORTABLE STORAGE UNITS (PODS)

REGULATIONS applicable to the placement of construction or non-construction waste dumpsters or portable storage units (pods) upon a public right-of-way are as follows:

The placement of a construction or non-construction waste dumpster or portable storage unit (pod) 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.

A construction or non-construction waste dumpster or portable storage unit (pod) placed upon a public right-of-way shall not extend into a cartway, nor impede or endanger the free flow of pedestrian or vehicular traffic.

A construction or non-construction waste dumpster or portable storage unit (pod) placed upon a public right-of-way shall not be placed with twenty (20) feet of a crosswalk at an intersection.

A construction or non-construction waste dumpster or portable storage unit (pod) placed upon a public right-of-way shall not be placed within fifteen (15) feet of a fire hydrant.

A construction or non-construction waste dumpster or portable storage unit (pod) placed upon a public right-of-way shall bear the owner's name and telephone number displayed in a conspicuous place plainly visible to passersby and kept there for the duration of the permit.

A construction or non-construction waste dumpster or portable storage unit (pod) placed upon a public right-of-way shall bear reflective marking 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.

No public right-of-way shall be closed for the purpose of location or utilization of a construction or non-construction waste dumpster or portable storage unit (pod).

The location and utilization of a construction or non-construction waste dumpster or portable storage unit (pod) upon a public right-of-way shall not be such as to constitute a safety hazard to person or property.

The placement of a construction or non-construction waste dumpster or portable storage unit (pod) 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.

The placement of a construction or non-construction waste dumpster or portable storage unit (pod) shall not extend into the tree lawn area unless approved by the Code Enforcement Officer.

Where a construction or a non-construction waste dumpster or portable storage unit (pod) is placed upon a portion of public right-of-way within parking meter zone, authorization from the Plymouth Police to bag the meter zone or meters must be secured for all affected meters, at a fee of five dollars (\$5.00) per day, Monday through Saturday, per meter.

The location and utilization of a construction or non-construction waste dumpster or portable storage unit (pod) placed upon a public right-of-way shall be in compliance with all other federal, state and local statutes, rules and regulations applicable thereto.

PROHIBITIVE USES FOR NON-CONSTRUCTION WASTE DUMPSTERS OR PORTABLE STORAGE UNIT (POD)

A non-construction waste dumpster or portable storage unit (pod) shall not be permitted to be placed upon public right-of-way for disposal of garbage as defined in DEFINITIONS of this Article.

SAFETY HAZARD.

Whenever the placement of a construction or non-construction waste dumpster or portable storage unit (pod) 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 Building Inspector or his designee, the Code Enforcement Officer or his designee shall serve or cause to be served upon the owner or other person who may have 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.

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.

If the person served with a notice to make safe and secure or remove thru construction or non-construction waste dumpster should fail, within the time frame specified by the Code Enforcement Officer or his designee, to comply with the requirements thereof, the Code Enforcement or his designee, when authorized by the Plymouth Borough Council or the Mayor,

the Mayor's designee, whichever is deemed appropriate, may have said waste dumpster or portable storage unit(pod) removed from the public right-of-way. The Code Enforcement Officer or his designee shall pay any cost incurred out of the Borough Treasury on certification.

The Borough Solicitor or other prosecuting authority shall institute proper actions against the owner of the construction or non-construction waste dumpster or portable storage unit (pod) for the recovery of cost incurred by the borough in the performance of having said waste dumpster removed from the public right-of-way or said costs can be imposed by the magistrate or district justice, who presides over proceedings brought under the violation and penalty provisions of this ordinance. This remedy is cumulative to any other remedy available in this ordinance or by laws of the Commonwealth of Pennsylvania.

Any person aggrieved by the actions of the Code Enforcement Officer may take an appeal to the Plymouth Borough for an appeal within ten (10) borough working days from the date notice to make safe and secure or remove the waste dumpster is mailed. The Plymouth Borough Council shall convene a hearing for the aggrieved parties.

VIOLATIONS AND PENALTIES.

Any person who shall violate any of the provisions of this Article, after having been served written notice, shall be liable to a fine of not less than three hundred dollars (\$300.00) for each offense, and not more than one thousand dollars (\$1000.00) for each offense, plus the filing fees incurred by the Borough, including legal fees. Each day that said violation of unsafe condition shall continue shall constitute a separate offense. Also, any person found guilty of violating this ordinance shall be order to abate the violation and pay the costs that the Borough incurred if it abated the violation. The Magistrate or District Justice that has authority to handle matters involving the Borough of Plymouth shall have the authority to preside, decide and enforce any matter filed under this ordinance including this provision.

SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any provision of this ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions and they shall remain in full force and effect.

REPEALER

All ordinances or resolutions inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency, including Ordinance 3 of 2002.

This ordinance shall become effective within five days of adoption.

ENACTED AND ORDAINED this 14th day of April, 2015 at a Regular Meeting of the
Plymouth Borough Council.

BOROUGH OF PLYMOUTH

By: *William Dixon*
William Dixon, Chairman of Council

ATTEST:

Holly Speer
Holly Speer, Secretary

[Seal]

APPROVED BY THE MAYOR

Dorothy E. Petrosky
Dorothy E. Petrosky

Dated: *April 14, 2015*