

BOROUGH OF TOPTON
BERKS COUNTY, PENNSYLVANIA

03 - 2021
ORDINANCE No. ~~2021-~~_____

AN ORDINANCE OF THE BOROUGH OF TOPTON, BERKS COUNTY, PENNSYLVANIA, REPEALING ORDINANCE NOS. 2-2014 AND 4-2014; ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2018 EDITION, AS THE PROPERTY MAINTENANCE CODE OF THE BOROUGH OF TOPTON; MODIFYING CERTAIN SECTIONS OF SAID CODE TO PROVIDE FOR THE ENFORCEMENT OF ENUMERATED "QUALITY OF LIFE" VIOLATIONS BY THE ISSUANCE OF A VIOLATION TICKET BY THE BOROUGH CODE OFFICIAL; TO SET FORTH PENALTIES FOR VIOLATION; TO PROVIDE FOR COLLECTION OF UNPAID FINES AND COSTS, INCLUDING THE LIENING OF PROPERTIES; AND PROVIDING FOR SEVERABILITY AND REPEALER OF INCONSISTENT ORDINANCES.

WHEREAS, the purpose of this Ordinance is to promote the general health, safety, welfare, and morals of the citizens of the Borough of Tipton, Berks County, Pennsylvania ("Borough");

WHEREAS, unmaintained properties, improper disposal and storage of trash, garbage, and rubbish, accumulation of junk, storage of unlicensed or unregistered vehicles, and failure to timely remove ice and snow from sidewalks are a hazard to the health, safety, welfare, and morals of the citizens of the Borough;

WHEREAS, the above-stated conditions are recognized as community problems;

WHEREAS, in 2014, the Borough adopted the 2009 Edition of the International Property Maintenance Code, published by the International Code Council, as part of two "Quality of Life Ordinances" adopted as Ordinances No. 2-2014 and 4-2014;

WHEREAS, the International Code Council has published a 2018 Edition of the International Property Maintenance Code ("IPMC" or "Property Maintenance Code"), and the Borough has found a need to address additional conditions to facilitate better quality of life in the Borough; and,

WHEREAS, this Ordinance seeks to promote the health, safety, welfare, and morals of the citizens of the Borough by helping to create a cleaner and safer environment through the adoption of the 2018 IPMC, and the designation of certain violations as "Quality of Life" violations, and providing enforcement mechanisms for violations.

NOW THEREFORE, it is hereby enacted and ordained by the Borough Council of the Borough of Tipton, Berks County, Pennsylvania as follows:

Section 1. Repeal of Ordinance Nos. 2014-2 and 2014-4. Ordinances No. 2014-2 and 2014-4, are repealed in their entirety and shall be replaced by the contents hereof.

Section 2. Borough Property Maintenance Code.

(a) **Adoption of 2018 IPMC.** The International Property Maintenance Code (International Code Council, 2018 Edition), is hereby adopted as the Property Maintenance Code of the Borough, for regulating and governing the conditions and maintenance of all property, buildings, and structures; for providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; for the condemnation of buildings and structures unfit for human occupancy and use, and for the demolition of such existing structures as herein provided; for providing for the issuance of permits and collection of fees therefor; and for each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code on file in the Borough office, and hereby referred to, adopted, and made a part hereof, as if fully set out in this Section. Three (3) copies of the aforementioned Property Maintenance Code, together with this Ordinance, shall be kept on file with the Borough Secretary in the Borough Office.

(b) **Modification of IPMC.** The IPMC, shall be modified as follows:

i. **Section 101.1 (Title)** - Insert "Borough of Topton."

ii. **Section 103.5 (Fees)** - Insert - "Fees assessable by the Borough for the administration and enforcement undertaken pursuant to this Property Maintenance Code shall be established by Resolution of Borough Council, and may be revised by Resolution of Borough Council from time to time."

iii. **Section 106** - Section 106, entitled "Violations," shall be amended and restated in its entirety as follows:

Section 106.1 Unlawful acts. It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this Property Maintenance Code.

Section 106.2 Notice of Violation and Violation Tickets. Any violation of the provisions of this Ordinance shall be cause for the issuance by the Code Official of a Violation Ticket or a Notice of Violation. A Violation Ticket shall be issued for those acts and/or omissions deemed to be "Quality of Life" violations as defined herein, and a Notice of Violation shall be issued for all other violations of the Property Maintenance Code.

Section 106.3 Service of Notices of Violation, Orders, and Violation Tickets. The Code Official shall serve Notices of Violation, Orders, and Violation Tickets in the manner set forth in Section 107.3 of the Property Maintenance Code.

Section 106.4 Prosecution of Violation. Any person failing to comply with or timely appeal a Notice of Violation or Order served in accordance with Section 107.3 of this Property Maintenance Code, or to pay

the full amount or timely appeal a Violation Ticket served in accordance with Section 107.3 of this Property Maintenance Code, shall be deemed guilty of a summary offense or civil infraction as determined by the Borough, and the violation shall be deemed a summary offense. If the Notice of Violation, Violation Ticket, or Order issued under this Property Maintenance Code is not complied with, the Code Official shall institute an appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Property Maintenance Code or of the Order or direction made pursuant thereto. Any action taken by the Borough or third party acting on behalf of the Borough shall be charged against the real estate upon which the structure is located and shall be a lien upon said real estate, subject to the filing of a municipal claim and lien and the procedures of the Municipal Claims and Tax Liens Law.

Section 106.5 Violation Penalties. Any person who shall violate a provision of this Property Maintenance Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits set forth in the laws of the Commonwealth of Pennsylvania for the prosecution of Summary Offenses under the Pennsylvania Rules of Criminal Procedure, and as set forth herein and as may be amended from time to time. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 106.6 Abatement of Violation. The penalties herein shall be cumulative with any and all other penalties and remedies available under applicable law. The imposition of penalties herein prescribed shall not preclude the Borough from instituting appropriate legal action to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

iv. **Section 107 – Section 107, entitled “Notices and Orders,”** shall be amended and restated in its entirety as follows:

Section 107.1 Notice to Person Responsible. Whenever the Code Official determines that there has been a violation of this Property Maintenance Code or has grounds to believe that a violation has occurred, notice shall be given for a Notice of Violation and/or Order in the manner described in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this Property Maintenance Code. In the event that the Code Official determines that there has been a violation of this Property Maintenance Code in the form of a “Quality of Life” violation, notice shall be given for a Violation Ticket in the manner prescribed in Section 107.4 herein. Notices for condemnation procedures shall also comply with Section 108.3.

Section 107.2 Form. Such Notice or Violation Ticket prescribed in Section 107.1 shall be in a form approved by Borough Council, and shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the Notice or Violation Ticket is being issued.
4. Include a correction order setting forth the time in which to remediate the condition(s) or make the repair(s) or improvement(s) required to bring the property, dwelling unit, or structure into compliance with provisions of this Property Maintenance Code.
5. Inform the property owner of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.4.

Section 107.3 Method of Service - Notice of Violation. A Notice of Violation shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent certified or first-class mail addressed to the last known address; or,
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

Section 107.4 Method of Service - Violation Ticket. A Violation Ticket shall be deemed to be properly served if a copy thereof is:

1. Handed to the violator.
2. At the residence of the person to be served, handed to an adult member of the household or other person in charge of the residence.
3. Left or affixed to a public and visible portion of the property where the violation exists,

4. At any office or usual place of business of the violator handed, to his/her agent or to the person for the time being in charge thereof,

5. Mailed to the violator's address of record by first class U.S. Mail, postage prepaid or certified mail.

Section 107.5 Unauthorized Tampering. Signs, tags, or seals posted or affixed by the Code Official shall not be mutilated, destroyed, or tampered with, or removed without authorization of the Code Official.

Section 107.6 Penalties. Penalties for non-compliance with Violation Tickets, Orders, and Notices shall be as set forth in Sections 106.4, 106.5, and 106.6 of this Ordinance.

Section 107.7 Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease, or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance Order, Violation Ticket or Notice of Violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any Violation Ticket, compliance Order, or Notice of Violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such Violation Ticket, Notice of Violation, or compliance Order, and fully accepting the responsibility without condition for making the corrections or repairs required by such Violation Ticket, compliance Order, or Notice of Violation.

v. **Section 112.4 (Stop Work Order - Failure to Comply)**- Insert "a fine or penalty of not more than One Thousand Dollars (\$1,000.00), together with fees and costs incurred by the Borough in prosecution."

vi. **Chapter 1 of the PROPERTY MAINTENANCE CODE, titled "Scope and Administration,"** shall be amended to add as Section 113 the following:

**SECTION 113
ENFORCEMENT OF QUALITY OF LIFE VIOLATIONS**

Section 113.1 Quality of Life Violations. Violations of the following Sections of the IPMC, and this PROPERTY MAINTENANCE CODE ORDINANCE, shall be deemed to be QUALITY OF LIFE VIOLATIONS as defined herein, to be enforced in the manner set forth in this Section 113:

1. **Section 302.3.1** – Failure to Remove Ice and Snow from Sidewalks
2. **Section 302.4** – Weeds or Grass and Plant Growth in Excess of Ten Inches (10’)
3. **Section 302.8** – Storing, Parking or Placing of More Than One Unregistered and/or Unlicensed Motor Vehicle on any PREMISES
4. **Section 302.9** – Defacement of Property
5. **Section 302.10** – Outdoor Placement of Appliances and INDOOR FURNITURE
6. **Section 308.1** – Permitting Accumulation of Rubbish or Garbage
7. **Section 308.3** – Improper Disposal of RUBBISH or GARBAGE and dumping of RUBBISH or GARBAGE on any PRIVATE PROPERTY or PREMISES
8. **Section 308.4** – Illegal Dumping, Hauling, Littering or Scattering of RUBBISH or GARBAGE

Section 113.2 Enforcement.

1. The provisions of this Section shall be enforced by the CODE OFFICIAL authorized to enforce this Ordinance by BOROUGH COUNCIL.
2. Any violation of the provisions of this Section may be cause for a citation, a VIOLATION TICKET, and/or a notice of violation to be issued to the violator.

Section 113.3 Authority for Issuance of Quality of Life Violation Ticket. Upon finding a QUALITY OF LIFE VIOLATION, the CODE OFFICIAL may issue one or more QUALITY OF LIFE VIOLATION TICKETS to the owner and/or occupant of property at issue or to the individual(s) known to have violated this Section.

Section 113.4 Separate Offense. Each day a QUALITY OF LIFE VIOLATION continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

Section 113.5 Abatement of Violation.

1. Any person or business violating this Section 113 is hereby directed to satisfy the Borough of Topton and its citizens,

upon issuance of a QUALITY OF LIFE VIOLATION TICKET, by correcting the violation in question. The CODE OFFICIAL is authorized and empowered to cause a violation to be corrected. The cost shall be determined by the CODE OFFICIAL in order that the Borough shall be compensated for both direct and indirect costs and expenses incurred.

2. The BOROUGH and/or its contractor, per the direction of the BOROUGH COUNCIL, reserves the right to abate the violation in question at the expense of the owner. If the BOROUGH has affected the abatement of the violation, the cost thereof may be charged to the owner of the property, tenant, or offending party. A bill/invoice will be generated to the violator for payment separate from the QUALITY OF LIFE VIOLATION TICKET, which will also be paid separately.

3. In all instances where the BOROUGH abates the violation, in addition to the fine set forth in the QUALITY OF LIFE VIOLATION TICKET, the BOROUGH is authorized to recover from the offending party, the owner of the property, or tenant the abatement charges and such other charges established by the CODE OFFICIAL and the rules and regulations.

4. The BOROUGH reserves the right to perform any necessary work to abate any violation once seventy-two (72) hours passes from the date of issuance of the QUALITY OF LIFE VIOLATION TICKET, and once twenty-four (24) hours passes from the date of issuance of a QUALITY OF LIFE VIOLATION TICKET for failure to remove ice and/or snow from a sidewalk. Should the violation at the discretion of the CODE OFFICIAL present imminent danger and/or pose a health hazard and/or risk, the BOROUGH reserves the right to perform the abatement immediately. The BOROUGH will perform this work at a rate of Sixty Dollars and 00/100 (\$60.00) per hour, per laborer, and forward the cost of any material necessary for the abatement, or as set forth in the Fee Schedule adopted annually by Resolution of BOROUGH COUNCIL. The BOROUGH reserves the right to charge an additional twenty (20%) percent on all material purchases to cover all miscellaneous expenses, such as wear and tear on equipment.

5. Contractor Cleanup. The BOROUGH reserves the right to direct a contractor to perform the abatement of the violation in question once seventy-two (72) hours passes from the date of issuance of the quality of life ticket. Should the violation present imminent danger and/or pose a health hazard and/or risk, the BOROUGH reserves the right to direct the contractor to perform the abatement immediately. The contractor will submit a bill for

their work to the BOROUGH and the BOROUGH will forward these costs to the violator. The BOROUGH reserves the right to add a thirty (30%) percent processing fee in addition to the cost of the contractor.

Section 113.6 Fines and Penalties.

1. **Warning Notice.** If the CODE OFFICIAL believes that a property has one or more QUALITY OF LIFE VIOLATIONS, and the property has had no such violations or warning notices given within a twelve (12) month period, the CODE OFFICIAL shall issue a written warning notice, which may be served by: handing to the owner, occupant, or other adult individual appearing to be in charge of the property in person, posting on the front door of the property, or mailing to the owner of record of the property by certified and first class mail. The warning notice shall state the Ordinance Section(s) in which is violation is suspected, and afford the owner of the property three (3) calendar days from the date of receipt of the warning notice to remove or abate the condition, with the exception of ice and snow removal, which must take place within twenty-four (24) hours of receipt of the notice. The notice shall state that any and all future violations will be subject to citation under the Borough Property Maintenance Code and Quality of Life Ordinance.

2. **First Offense.** For the first QUALITY OF LIFE VIOLATION TICKET within a 12-month period, violation tickets shall be issued in the amount of Twenty Five Dollars and 00/100 (\$25.00).

3. **Second Offense.** For the second QUALITY OF LIFE VIOLATION TICKET within a 12-month period, violation tickets shall be issued in the amount of Fifty Dollars and 00/100 (\$50.00).

4. **Third Offense.** For the third QUALITY OF LIFE VIOLATION TICKET within a 12-month period, violation tickets shall be issued in the amount of One Hundred Dollars and 00/100 (\$100.00).

5. **Cumulative Fines for Subsequent Offenses.** For subsequent offenses beyond the third offense within a 12-month period, amounts of violation tickets shall increase by \$150.00, cumulative for each subsequent offense. For example, a resident receives a ticket for failing to remove ice from his sidewalk in January and pays \$25.00. He receives a second ticket for the same offense in February, and pays \$50.00. In May, he is cited for failing to clean up after his dog, and pays a fine of \$100.00. In August, he has failed to mow the lawn and cut weeds on his property for

several weeks, and receives a ticket for \$250.00. If he is cited in September for having a disassembled vehicle on his property, his fine increases to \$400.00, and when cited again in December for not shoveling his sidewalk after a snowfall, his fine increases to \$550.00.

6. **Remediation Required.** Any persons who receive QUALITY OF LIFE VIOLATION TICKET for any violation of this Part may, within ten (10) days, admit the violation, waive a hearing, and pay the fine. The violation, however, must fully be remediated, or the person(s) will be cited for a subsequent offense.

7. **Determination of "Twelve (12) Month Period".** The twelve (12) month period for purposes of determining the level of penalty and amount of fine is counted from the date of the last conviction for or payment of a fine for Quality of Life Violation.

8. **Costs of Remediation and Abatement.** Any persons who violate this Section shall pay a fine as set forth herein for each offense, plus all direct and indirect costs incurred by the Borough for the clean-up and abatement of the violation.

Section 113.7. Violation Ticket Penalties.

1. **Penalties for Late Response.**

a. If the Person in receipt of a Twenty-Five Dollar and 00/100 (\$25.00) violation ticket does not pay the fine or request a hearing within ten (10) days of issuance, the person will be subject to a penalty of Ten Dollars and 00/100 (\$10.00) for days eleven (11) through thirty (30) per ticket.

b. If the Person in receipt of a Fifty Dollar and 00/100 (\$50.00) violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Twenty-Five Dollar and 00/100 (\$25.00) penalty for days eleven (11) through thirty (30) per ticket.

c. If the person in receipt of a One Hundred Dollar (\$100.00), or higher violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Fifty Dollar (\$50.00) penalty for days eleven (11) through thirty (30) per ticket.

2. **Citation for Failure to Respond.** Failure of the person to make payment or request a hearing within thirty (30) days of a violation ticket shall make the person subject to a citation for failure to pay.

3. **Continuous Violations.** If violations are continuous, the CODE OFFICIAL has the right to issue citations without first issuing

tickets, provided notice has been given. Upon issuance of four (4) tickets for the same violation, right is reserved for the CODE OFFICIAL to issue a citation for the fifth and subsequent offenses.

4. **Citation Fines.** Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction, be ordered to pay a fine not less than One Hundred (\$100) Dollars, not more than One Thousand (\$1,000) Dollars on each offense or imprisoned no more than ninety (90) days, or both.

Section 113.8 Appeal to Quality of Life Appeals Officer. A person in receipt of a Quality of Life Violation Ticket may either:

a) Pay the fine indicated to the address stated on the "Quality of Life Violation Ticket" within ten (10) calendar days of receipt; or,

b) Appeal to the Quality of Life Appeals Officer by filing a request in writing within ten (10) calendar days of the date of the violation ticket. All paperwork, including the appropriate appeal form for the appeal, must be submitted and complete within ten (10) calendar days from the date the Quality of Life Violation Ticket was issued. Payment of the fine must be in full, which will be refunded within thirty (30) calendar days should the alleged violator be successful in his/her appeal. The appeal hearing will be held before the Quality of Life Appeals Officer and he/she may uphold the appeal, deny the appeal, or may modify the violation ticket, and/or any associated costs, fines or penalty amounts as he/she sees appropriate. In the event that the appeal is denied, or the individual in receipt of the ticket disagrees with the modification, the individual may appeal the ticket to the Magisterial District Court having jurisdiction in the Borough, pursuant to the Pennsylvania Rules of Criminal Procedure for Summary Offenses within thirty (30) days of the date of the decision of the Quality of Life Appeals Officer, in the manner stated on the Quality of Life Violation Ticket.

Section 113.9 Collections. At the discretion of the BOROUGH COUNCIL, all tickets for which payment is not received within forty-five (45) days of issuance of a ticket for which an appeal is not taken, and forty-five (45) days from denial of appeal and monies paid by the BOROUGH for abatement of a violation not paid within forty-five (45) days of billing, may be turned over by the BOROUGH to a collection agency for receipt. All costs of collection shall be charged to the violator, in addition to fines and penalties levied herein.

Section 113.10 Liens. At the discretion of the BOROUGH, liens may be placed upon a property against which QUALITY OF LIFE VIOLATION TICKET (S) were issued for which payment is not received within forty-five (45) days of issuance of a QUALITY OF LIFE VIOLATION TICKET for which an appeal is not taken, and forty-five (45) days from denial of appeal and monies paid by the BOROUGH for abatement of a violation and not paid within forty-five (45) days of billing. All costs incurred in the filing of the lien(s), including attorneys' fees and court costs, shall be charged to the violator, in addition to fines and penalties levied herein.

vii. Add to Chapter 3, ("General Requirements"), Section 302.3 ("Sidewalks and Driveways") as Section 302.3.1 the following:

Failure to Remove Snow or Ice from Sidewalks. Every owner, tenant, occupant, lessee, property agent or property manager, or any other person who is responsible for any property within the BOROUGH is required to remove any snow or ice from the sidewalk within twenty four (24) hours of the cessation of said snow or ice falling or forming. Furthermore, said person or persons as described above must create a path, free from snow or ice, for the length and width of the sidewalk, to a maximum of a path forty-eight inches (48") in width. Should any property be a place of business within the Borough, all snow and ice must be removed within four (4) hours of its falling or forming. If and/or when snow and/or ice cessation occurs during hours of darkness, the four (4) hour time limit for removal begins at daybreak. Snow and ice removed from sidewalks, driveways, or other areas shall not be placed in any street or road or sidewalk.

viii. **Section 302.4 (Weeds)** - insert "ten inches (10")"

ix. **Section 302.8**, titled "Motor Vehicles," shall be amended and restated in its entirety as follows:

"Motor Vehicles. Except as provided for in other laws, ordinances, or regulations, not more than one (1) currently unregistered and/or unlicensed and/or inoperable MOTOR VEHICLE shall be parked, kept, or stored on the exterior of any PREMISES, and no MOTOR VEHICLE shall at any time be kept or stored on the exterior of any PREMISES in a state of visible disassembly, disrepair, or in the process of being stripped or dismantled when not being actively worked upon. Any such vehicle shall be covered when not being actively worked upon with a vehicle cover. Painting of vehicles is prohibited unless conducted inside an approved spray booth. The sole exception to this prohibition is for commercial or industrial properties licensed for operations involving salvaged vehicles, or vehicle storage, repair, or restoration.

x. Add as Section 302.10 the following:

"Outdoor Placement of Appliances and INDOOR FURNITURE. It is prohibited to store or place indoor-use appliances (including but not

limited to: ranges, refrigerators, air conditioners, ovens, washing machines, clothes dryers, microwave ovens, or dishwashers) or INDOOR FURNITURE on the exterior of any property for the purpose of sale or any other reason, except for the temporary purpose of performing maintenance. Refrigerators, washing machines, clothes dryers, dishwashers, ovens, and ranges, and other similar appliances, may be placed on the exterior of a property for no more than twelve (12) hours to await disposal in accordance with applicable law, but must have doors removed and any refrigerant removed and disposed of in accordance with applicable law. If additional time is needed to await proper disposal, property owner shall inform the CODE OFFICIAL in writing of the reason for the need for additional time, and the CODE OFFICIAL shall have authorization to grant or deny such requests."

xi. Add to Section 308 ("Rubbish and Garbage"), Section 308.3 ("Disposal of Garbage") as Section 308.3.3 the following:

Section 308.3.3 Failure to Provide Appropriate Storage Containers for Waste, Trash, Junk, and Recyclables, and Improper Storage of Containers for Waste, Trash, Junk, and Recyclables. The owner of every premises shall be responsible for the removal of RUBBISH, WASTE, GARBAGE, JUNK and RECYCLABLES from the property, and no property owner shall permit the accumulation of said materials on the exterior of the property outside of covered storage containers, which must be removed from the exterior property when filled to capacity and the materials lawfully disposed of. All containers that store RUBBISH, WASTE, GARBAGE, JUNK, and RECYCLABLES shall be of durable construction, water tight, and be kept clean and sanitary, and have tight-fitting covers. Such containers may only be placed in front of any property the night before the day of a scheduled pickup day, and removed within twenty four (24) hours from the public right-of-way.

xii. Add as Section 308.4 the following:

Section 308.4. Littering, Illegal Dumping and Illegal Hauling. It shall be the responsibility of every owner and/or occupant to dispose of RUBBISH, WASTE, GARBAGE, JUNK and/or RECYCLABLES in the manner set forth in applicable laws and ordinances, as follows:

1. All PERSONS or entities must lawfully dispose of and remove from their properties all WASTE, TRASH, GARBAGE, JUNK, AND/OR RECYCLABLES and shall not allow an accumulation of such materials on properties which they own or occupy.

2. Should any PERSON or entity use a hauler not licensed by the Commonwealth of Pennsylvania to dispose of RUBBISH, WASTE, GARBAGE, and RECYCLABLES or have RUBBISH, WASTE, GARBAGE, and RECYCLABLE removed in a manner which violates this or other

applicable laws and/or Ordinances, said PERSON or entity shall be in violation of this Ordinance.

3. It shall be unlawful, and a violation of this Ordinance, for any PERSON or entity to remove or haul RUBBISH, WASTE, GARBAGE, JUNK, and/or RECYCLABLES without required Commonwealth licensure and all other licenses or certifications mandated by applicable law. This section shall not apply to an owner or occupant of property removing such materials from the property for lawful disposal or recycling.

4. No person shall dump, place, sweep, or dispose of any WASTE, GARBAGE, JUNK, RUBBISH, and/or RECYCLABLES upon any PUBLIC RIGHT-OF-WAY, public sidewalk, alley, street, bridge, public passageway, public parking area, or any other public property.

5. The disposal of RUBBISH, WASTE, GARBAGE, JUNK, and/or RECYCLABLES not in accordance with this Ordinance shall be deemed to be a violation of this Ordinance.

xiii. In Chapter 6 ("Mechanical and Electrical Requirements") Section 602.3 ("Heat Supply") - Insert "October 1 to June 1."

xiv. In Section 602.4 (Occupiable Work Spaces") - Insert "October 1 to May 1."

Section 3. Definitions.

(a) **Definitions in IPMC.** All of the definitions contained in the IPMC, 2018 Edition, Chapter 2, entitled "Definitions" are hereby incorporated by reference as though set forth herein at length.

(b) **Amendment of Property Maintenance Code to Add Definitions.** The following definitions are added to IPMC 2018 Chapter 2, Section 202, entitled "General Definitions" to add the following words, terms, and phrases:

i. "BOROUGH" - The Borough of Topton, Berks County, Pennsylvania.

ii. "BOROUGH COUNCIL" - The governing body of the BOROUGH.

iii. "DUMPING" - conduct which includes, but is not limited to, depositing of LITTER, depositing large or small appliances or other durable goods, furniture, INDOOR FURNITURE, carpeting, tires, MOTOR VEHICLES, MOTOR VEHICLE parts, automotive products, MUNICIPAL WASTE, HAZARDOUS WASTE, JUNK, and construction or demolition debris on public or private property, except as authorized by law.

iv. "GRAFITTI" - any unlawful inscription, word, figure, painting, or other defacement that is written, marked, scratched, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property to the extent not authorized in advance by the owner or individual allowed to give such permission with respect to that property.

v. "INDOOR FURNITURE" - any and all pieces of furniture which are made only for interior household or commercial use.

vi. "JUNK"- any discarded material or article, including but not limited to: scrap metal, scrapped, abandoned, or junked MOTOR VEHICLES, furniture, MOTOR VEHICLE parts, machinery, machinery parts, equipment, paper, glass, containers, and abandoned, dilapidated or partially dismantled structures. It shall also include, as defined further herein, a fully or partially dismantled motor vehicle or vehicle not bearing current registration or license plates and which is not in the process of immediate repair or restoration. It shall not, however, include refuse or garbage kept in a proper container for the purpose of prompt disposal in accordance with applicable laws and ordinances.

vii. "MOTOR VEHICLE" - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

viii. "NOTICE OF VIOLATION" - a written document issued to a person alleged to be in violation of a BOROUGH Ordinance.

ix. "NUISANCE" - any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, and welfare of the citizens of the BOROUGH or persons on or near a property, or causes a blighting effect in neighborhoods. See also, "PUBLIC NUISANCE."

x. "PRIVATE PROPERTY" - any land, and the improvements thereon, owned by any PERSON, whether inhabited, temporarily inhabited, continuously uninhabited, or vacant, and including front, side, and rear yards; vacant lots; buildings and other structural improvements; walkways and alleyways; parking areas; walkways; driveways; porches; steps; vestibules; mailboxes or other items or features belonging to or appurtenant to such dwelling, house, land, building, or other structure.

xi. "PROPERTY MAINTENANCE CODE" - The International Property Maintenance Code (International Code Council, 2009 Edition).

xii. "PROPERTY MAINTENANCE CODE ORDINANCE" - This Borough Ordinance No. 2021- , containing the PROPERTY MAINTENANCE CODE, and BOROUGH modifications thereto.

xiii. "PUBLIC NUISANCE" - any condition or premises which are unsafe or unsanitary and present a hazard to the health, safety, and/or welfare of Borough residents, or PERSONS on or near the property on which the unsafe or unsanitary condition exists.

xiv. "QUALITY OF LIFE APPEALS OFFICER" - Individual appointed by BOROUGH COUNCIL to hear appeals from QUALITY OF LIFE VIOLATION TICKETS.

xv. "QUALITY OF LIFE VIOLATIONS" - Violations of the following Sections of this PROPERTY MAINTENANCE CODE, as amended by this PROPERTY MAINTENANCE CODE ORDINANCE, which have been deemed by BOROUGH COUNCIL to be a PUBLIC NUISANCE and an immediate threat to the health, safety, welfare, and morals of BOROUGH citizens:

A. Section 302.3.1 - Failure to Remove Ice and Snow from Sidewalks

B. Section 302.4 - Weeds or Grass and Plant Growth in Excess of Ten Inches (10")

C. Section 302.8 - Storing, Parking or Placing of More Than One Unregistered and/or Unlicensed Motor Vehicle on any PREMISES

D. Section 302.9 - Defacement of Property

E. Section 302.10 - Outdoor Placement of Appliances and INDOOR FURNITURE

F. Section 308.1 - Permitting Accumulation of Rubbish or Garbage

G. Section 308.3 - Improper Disposal of RUBBISH or GARBAGE and dumping of RUBBISH or GARBAGE on any PRIVATE PROPERTY or PREMISES

H. Section 308.4 - Illegal Dumping, Hauling, Littering or Scattering of RUBBISH or GARBAGE

xvi. "RECYCLABLE MATERIAL" - material which would otherwise become "WASTE," which can be collected, separated, or processed, and returned to the economic mainstream in the form of raw materials or products. These materials may include, but not be limited to, aluminum cans, ferrous and bi-metallic cans, glass containers, plastic containers, newspaper, and mixed paper.

xvii. "SIDEWALK AREA" - the PUBLIC RIGHT-OF-WAY between the property line and the curb line or the established edge of the roadway.

xviii. "STORAGE" - the containment of any WASTE on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any WASTE in excess of fourteen (14) days constitutes disposal.

xix. "VEGETATION" - any planting that is cultivated and managed for edible or ornamental purposes such as trees, fruit or vegetable plants or gardens, flowers or flower gardens, shrubs, and hedges.

xx. "VIOLATION TICKET" or "QUALITY OF LIFE VIOLATION TICKET" - a form issued by the authorized CODE OFFICIAL to a person alleged to be in violation of this Ordinance.

xxi. "WASTE" - any garbage, refuse, industrial, commercial, or office waste, and other material, including solid, liquid, semisolid, or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments or from community activities

xxii. "WEEDS" - shall be defined as plant matter which is not VEGETATION as defined above, and/or meets the following criteria:

- A. Exceeds ten inches (10") in height.
- B. Disseminates noxious odors, pollen, or seeds, including but not limited to ragweed, dandelion, and other plant matter commonly considered "weeds" or "brush."
- C. Is not cultivated, planted, or managed for esthetic purposes or for use as food.
- D. May conceal animal waste or LITTER or other filthy deposits, or serve as a breeding or harborage grounds for mosquitos, insects, vermin, or other pests.
- E. Conceals or creates other hazards to public health or safety, or otherwise may create a PUBLIC NUISANCE.

Section 4. Severability. If any provision, paragraph, word, section, or subsection of this Part is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect, and shall not affect the validity of the remainder of the Ordinance.

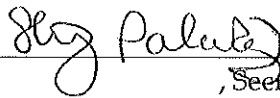
Section 5. Repealer. All relevant ordinances, regulations, and policies of the Borough of Topton, Pennsylvania not amended shall remain in full force and effect. Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall become effective on the earliest date permitted by law.

DULY ENACTED AND ORDAINED this 12th day of APRIL, 2021, by the Council of the Borough of Topton, Berks County, Pennsylvania.

ATTEST:

BOROUGH OF TOPTON

By: 
Secretary

By: 
Toby Bower, Council President

DULY approved this 12th day of APRIL, 2021

By: 
Thomas A. Biltcliff, III, Mayor

