



# BOROUGH OF OAKLAND BERGEN COUNTY, NEW JERSEY



## ORDINANCE NO. 24-CODE-946

### AN ORDINANCE ESTABLISHING A DUST CONTROL POLICY

**WHEREAS**, the Borough of Oakland desires to minimize the proliferation of dust, debris, odors, vapors, smoke, and vehicle track-out in the Borough.

**WHEREAS**, the Borough of Oakland finds that certain activities including transportation, have the potential to create, or contribute to the creation of, dust, debris, odors, vapors, smoke, and vehicle track-out. The proliferation of dust, debris, odors, vapors, smoke, and vehicle track-out have the potential to create negative impacts on both residents and local property. These include, but are not limited to, potential health hazards associated with inhaling fugitive dust, debris, odors, vapor, and smoke, which include pulmonary inflammation, asthma, and fibrosis. In addition, the accumulation of dust, debris, odors, vapors, smoke, and vehicle track-out negatively impacts the enjoyment of life and property, and tends to depreciate the value of the property of others near these lots.

**WHEREAS**, the Borough of Oakland desires to prescribe reasonable regulations to minimize dust, debris, odors, vapors, smoke, and vehicle track-out from commercial parking and storage lots, and applies to any owner, operator, or other person who owns, manages, leases, rents, or occupies any commercial or storage lot, including any person that transports materials to, from, or within the Borough.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Borough Council of Oakland as follows:

**Section I.** Chapter 15 of the Borough of Oakland Code under "Environmental Regulations" is amended as follows to add a Section 3 entitled "Dust Control" as follows:

15-3(a) *Nuisance prohibited.* It shall be unlawful for any person, including any partnership, corporation, association, or agent thereof who owns, manages, leases, rents, or occupies any property subject to this ordinance to cause, permit, maintain, or allow any condition(s) to exist as defined herein which creates or contributes to the creation of a nuisance as defined in section below as a result of dust, debris, odors, vapors, smoke, or vehicle track-out.

15-3(b) *Definitions.* For the purposes of this section, the following definitions shall apply:

(1) *Dust* means any solid particulate matter that becomes airborne or otherwise moves beyond the lot, facility, building, or structure property line or, if being transported by a vehicle, moves beyond the confines of the vehicle, by natural or human-made activities, excluding engine combustion exhaust and particulate matter emitted from a properly permitted exhaust stack equipped with a pollution control device.

(2) *Track-out* shall mean the carrying of mud, dirt, soil, or debris on vehicle wheels, slides, or undercarriages from a private, commercial, or industrial site onto a public road, right-of-way, or property of another.

(3) *Vapors* includes any gaseous substances emanating from the movement of materials by a vehicle. Vapors shall not include emissions or exhaust from a vehicle as long as the emissions or exhaust are within accepted guidelines under federal and state law.



(4) *Vehicle* is any car, truck, or railcar.

15-3(c) *Notice of violation.* If a nuisance or condition(s) causing or contributing to a nuisance are discovered by an enforcement official, the enforcement official may issue a notice of violation to the person, including any partnership, corporation, association, or agent thereof who owns, manages, leases, rents, or occupies any property in the relevant zones, that requires elimination of the nuisance and/or condition(s) causing or contributing to the nuisance within 3 days of notification. Any steps taken to eliminate a nuisance and/or condition(s) causing or contributing to the nuisance must comply with all existing local, state, and federal laws.

15-3(d) *Vehicles and transportation.*

(1) Any vehicle that is discovered to have dust, debris, smoke, odor, vapor, and/or gaseous substance coming from material(s) that it is carrying, hauling, or otherwise transporting, and that either causes or contributes to the creation of a nuisance or obstructs, impedes, or otherwise interferes with the normal flow of traffic or obstructs the view of a driver in a different vehicle, must cover the material(s) to eliminate the nuisance caused by said dust, debris, smoke, odor, vapor, or gaseous substance while traversing public rights of way.

(2) When transportation to, from, or within a property subject to this ordinance is done by truck, the owner or operator of the lot shall ensure the following:

a. That the trucks will not cause any unaddressed track-out of materials onto the public way.

b. That all outgoing material transport trucks, whether loaded or empty, are cleaned so that any part of any tractor, bed, trailer, or tire exterior surface, excluding the inside of the beds or trailer, are free of all loose materials.

c. All outgoing material transport trucks, whether loaded or empty, pass over rumble strips that will vibrate the trucks and shake off loose materials and dust, and pass through a wheel wash station.

d. That any material removed by the truck cleaning operation, rumble strips, or a wheel wash station must be collected and recycled or otherwise disposed of in a manner that complies with all applicable state and local code requirements related to waste disposal, including the New Jersey codes and statutes, and does not result in fugitive dust emissions or negative impacts on applicable sewers and drains.

15-3(e) *Penalties.* Failure to correct a violation within 3 days of the issuance of the notice identified in subsection (d) of this section shall constitute a violation, which is punishable as a civil infraction punishable by a civil fine of \$1,000, plus costs imposed by the court. Each day the violation continues shall constitute a separate and distinct violation.

(1) An increased fine schedule shall be imposed for repeat violations of this section.

(2) As used in this section, "repeat violation" means a violation committed within ninety (90) days of an admission or determination of responsibility for a violation of this section occurring upon the same property.

(3) The increased penalty for a repeat violation shall be a civil fine of \$2,500, plus costs imposed by the court.


15-3(e) *Relevant Area.* This ordinance shall apply in all non-residential zones meaning those defined Borough Code Section 59-53 through 59-58

**Section II.** All other parts, portions and provisions of Chapter 15, 59, or other relevant sections of the Borough of Oakland Code be and the same are hereby ratified and confirmed, except where inconsistent with the terms hereof. In the event of any such inconsistency, the terms of this Ordinance shall be deemed to govern.


**Section III.** The terms of this Ordinance are hereby declared to be severable; should any part, portion or provision hereof be declared invalid or unconstitutional, said finding shall not affect any other part, portion or provision thereof.

**Section IV.** This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:

  
Wendi Seelin, Acting Borough Clerk

BOROUGH OF OAKLAND  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

By:   
Eric Kulmala, Mayor

Date: 9/28/24

