

SCOTT TOWNSHIP, LACKAWANNA COUNTY, PA

ORDINANCE NO 10-10-21-002

AN ORDINANCE OF THE TOWNSHIP OF SCOTT, LACKAWANNA COUNTY, PENNSYLVANIA, ESTABLISHING A PROGRAM FOR COLLECTION, STORAGE, TRANSPORTATION, PROCESSING AND DISPOSAL OF MUNICIPAL WASTE AND FOR RECYCLING, INCLUDING MANDATORY SOURCE SEPARATION AND SEPARATE COLLECTION OF DESIGNATED RECYCLABLE MATERIALS; PROVIDING FOR THE REGULATION OF COLLECTORS; PROHIBITION THE DISPOSAL OF DESIGNATED RECYCLABLE MATERIALS AND LEAF WASTE WITH MUNICIPAL WASTE; EMPOWERING SCOTT TOWNSHIP TO ADOPT AND PROMULGATE REASONABLE REGULATIONS THEREOF; FIXING PENALTIES FOR VIOLATION OF THIS ORDINANCE AND SPECIFICALLY REPEALING AND REPLACING PREVIOUS CONTRADICTORY ORDINANCES.

SECTION 1. INTENT.

1. To bring SCOTT Township into full compliance with Act 140 as adopted by the Pennsylvania General Assembly in 2006 governing the eligibility of municipalities to receive Recycling Program Performance Grants.
2. This Ordinance shall provide a mandatory recycling program and govern all aspects of the collection, storage, transportation, processing and disposal of municipal solid waste in SCOTT Township. It contains regulations applicable to collectors of municipal waste, collectors of recyclables, individuals, commercial, municipal and institutional establishments.

SECTION 2. PURPOSE.

An ordinance to require that all residents have waste service and either use a recycling pick up service, or the township's bi-monthly drop off ; to enhance the Township's residential and commercial recycling program; to enhance the residential and business recycling program; to implement a program of enforcement that periodically monitors participation, receives complaints and issues warnings for required participants and provides suitable penalties; to provide for participation in a program for the recycling of special materials; to address illegal dumping and littering; and which confirms the designation of a recycling coordinator.

SECTION 3. DEFINITIONS.

As used in this Ordinance, the following terms shall have the meaning indicated, unless a different meaning appears clearly from the context:

AUTHORIZED COLLECTOR – A Private Hauler (as defined herein), or a person who, being so authorized by the terms of this Ordinance, who removes municipal waste or recyclables from his own premises, as owner of the building or commercial, municipal or institutional establishment or community activity conducted therein, or as an agent of another person.

CARDBOARD – Any structural paper material with an inner core shaped in rigid parallel furrows and ridges.

COLLECTOR – A general term referring to any person who collects, for removal from premises, municipal waste or recyclables.

COMMERCIAL – Of or pertaining to any wholesale, retail, industrial, manufacturing, transportation, financial or professional service or office enterprise, business or establishment.

COMPOSTING – The process of the biological decomposition of organic solid waste being biologically decomposed under controlled anaerobic or aerobic conditions to yield humus like product.

CORRUGATED PAPER – Structural paper material with an inner core shaped in rigid parallel furrows and ridges, of the type normally used to make packing cartons and boxes.

CURBSIDE – That location at the edge of any lot, parcel or piece of land adjacent to a public right-of-way or roadway, and which location is most accessible and/or convenient to any authorized collector, as defined by this Ordinance, for the purpose of collecting municipal waste and/or recyclables.

CURBSIDE COLLECTION – A method of collection of residentially generated recyclables by which the owners or occupants of certain residential properties by placing them at curbside at a time designated by an authorized collector for collection and removal thereof for delivery to a recycling center.

DISPOSAL – The incineration, depositing, injection, dumping, spilling, leaking or placing of municipal waste into or on the land or water in a manner such that the municipal waste or a constituent thereof enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

DISPOSAL AREA – Any site, location, area, building, structure, transfer station or premises to be used for municipal waste disposal.

GARBAGE – All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

GLASS CONTAINERS – All empty food and beverage jars or bottles, the product being transparent or translucent (clear, green or brown). Expressly excluded are non-container glass, window or plate glass, light bulbs, blue glass and porcelain and ceramic products.

HIGH GRADE PAPER – Bond copier, letterhead or mimeograph paper typically sold as "white ledger" paper, and computer paper.

INSTITUTIONAL – Of, or pertaining to, any establishment engaged in service to persons including, but not limited to, hospitals, nursing homes, schools, universities, churches and social or fraternal societies and organizations.

LEAF WASTE – Shall mean leaf waste from trees, bushes and other plants, garden residue, shrubbery and tree trimmings but not including grass clippings.

LANDLORD – The owner of residential property, made subject to a lease, or such owner's authorized agent.

MAGAZINES – Printed matter, also known as "periodicals," containing miscellaneous written pieces published at fixed or varying intervals, printed on glossy or chemically coated paper. Expressly excluded are newspapers and all other paper products of any nature whatsoever.

METAL AND ALUMINUM CANS – Includes all disposable, recyclable containers fabricated primarily of aluminum, metal or bimetal and commonly used for beverages, fruits, vegetables and other liquid or dry matter, but specifically excludes aerosol cans.

MULTIFAMILY DWELLING – A type of residential property either under single ownership or organized as a condominium or cooperative form of housing, which contains four or more dwelling units.

MUNICIPAL – Of, or pertaining to, any office or other property under the control of any branch or arm of the Federal Government of the United States of America, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth of Pennsylvania including, but not limited to, SCOTT Township, any Counties, Cities, Boroughs, Townships and municipal authorities.

MUNICIPAL WASTE – Any garbage, refuse, industrial, lunchroom or office waste and other materials, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal or commercial or institutional establishments, or from community activities and which are not classified as residual or hazardous waste, except farm produced manure, other agricultural waste and food processing used on land where such materials will improve the condition of the soil, the growth of crops or the restoration of the land for the same purposes, and any sludge

not meeting the definition of "residual or hazardous waste," as defined in Commonwealth of Pennsylvania Solid Waste Management Act. The term does not include source-separated recyclable materials or leaf waste.

MUNICIPAL WASTE LANDFILL – Any facility that is designed, operated, used and or maintained for the disposal of municipal waste. The term shall not include any facility that is used exclusively for disposal of construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.

NEWSPAPER – Paper of the type commonly referred to as "newsprint" and distributed at fixed or stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest. The term "newspaper" expressly excludes glossy advertising inserts, magazines, glossy or other chemically coated paper, office paper and any other paper products of any nature.

PERSON – Any agent, individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, federal government or agency, state institution or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

PLASTIC – Manmade materials composed of large molecules called polymers. Specifically, HDPE, high density polyethylene, commonly used as plastic gallon milk jugs or PETE, polyethylene terephthala, commonly used for soda bottles.

PRIVATE HAULER – A person licensed by the State of Pennsylvania as per the amended Title 27 (Environmental Resources), Waste Transportation Safety Program, or the Pennsylvania Consolidated Statutes, to collect, haul, transport municipal waste and recyclables. All such haulers shall comply with the provisions of Title 27, as well as all Federal, State, County and local laws and regulations.

RECYCLABLES – Materials designated as recyclable in this Ordinance, or required by the terms of this Ordinance (or any amendment hereto) to be kept separate from municipal waste and recycled. The term includes leaf waste (as defined herein) (which is treated somewhat differently as it can be composted).

RECYCLING FACILITY – A facility employing a technology and/or a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term "recycling facility" shall

not mean transfer stations or landfills for solid waste nor composting facilities or resource recovery facilities. The term does not include:

- (1) Any composting facility.
- (2) Methane gas extraction from a municipal waste landfill.
- (3) Any separation and collection center, drop-off point or collection center for recycling, or any source-separation or collection center for composting leaf waste.
- (4) Any facility, including all units in the facility with a total processing capacity of less than 50 tons per day.

RUBBISH – Solid waste exclusive of garbage (e.g., non-recyclable glass, metal, paper or plastic) and non-compostable plant material, wood or nonputrescible solid waste.

STEEL CANS – Empty food or beverage containers made of steel, tin coated steel or ferrous metal food or beverage containers.

STORAGE – The containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such municipal waste. It shall be presumed that the containment of any municipal waste in excess of 1 year constitutes disposal. This presumption may be overcome only by clear and convincing evidence to the contrary.

TOWNSHIP – SCOTT Township, LACKAWANNA County, Pennsylvania.

TRANSFER STATION – A facility that receives and processes or temporarily stores municipal or residual waste at a location other than the generation site and which facilitates the transportation or transfer of municipal or residual waste to a processing or disposal facility. The term includes a facility that uses a method or technology to convert part or all of such waste materials for offsite refuse. The term does not include a collection or processing center that is only for source-separated recyclable materials, including clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastic. Nor does the term include the centrally designated location of a development where agents of the lot's owners have gathered the waste from the development for collection by a private hauler.

TRANSPORTATION – The removal from any site or location of any municipal waste or recyclable materials at any time after generation thereof.

WASTE – A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed of. The term does not include source-separated recyclable materials, leaf waste

or material approved by the Commonwealth of Pennsylvania, Department of Environmental Protection for beneficial use.

SECTION 4. DUMPING; LITTER.

1. It shall be unlawful for any person to store, dump, discard or deposit, or to permit the storage, dumping, discarding or depositing of any municipal waste or recyclables upon the surface of the ground or underground within the Township, except in proper containers for purposes of storage or collection, and except where the waste or recyclables are of such size or shape as not to permit their being placed in such containers. It shall be unlawful for any person to dump or deposit any municipal waste or recyclables in any stream, body of water or on any public right-of-way within the Township. Backyard composting which is done so as not to create a public nuisance is excepted from this provision.
2. All owners of commercial, institutional and municipal establishments in the Township shall take all reasonable precautions to prevent the deposit and accumulation of debris on their premises. Such owner or operator may place appropriate waste containers on the sidewalks in front of or adjacent to their premises at a point that will not create a hazard to traffic or pedestrians. Any such receptacles so placed shall be emptied on a regular basis and maintained in a neat and clean appearance.
3. Nothing contained herein shall prohibit a duly constituted property owners association or corporation from assembling municipal waste or recyclables at a central, accessible location, provided such activities are conducted and confined within the boundaries of that real estate development or subdivision, as defined herein, lawfully recorded and recognized as such.
4. Nothing contained herein shall prohibit a farmer from carrying out the normal activities of his farming operation, including composting and spreading of manure or other farm produced agricultural waste, provided such activities be conducted in accordance with all applicable laws, rules and regulations.
5. Bulk containers shall not be permitted to overflow or to have waste strewn or left about them on the ground. A violation of this provision shall be deemed

a violation of this Ordinance by the person on whose property the bulk container is located, if it is located on private property.

6. No waste or recyclables shall be allowed to either accumulate on the ground or be disposed of on highways, Township roads, vacant lots or other property, nor be thrown in any stream or other body of water.

SECTION 5. SEPARATION OF RECYCLABLES.

1. The owners and occupants of all residential properties and all commercial, municipal and institutional establishments shall recycle cardboard and paper products, plastics 1-7 and aluminum cans which shall be kept separate from municipal waste for the purpose of recycling.
2. Leaf waste may be kept separate from municipal waste, for the purpose of backyard composting or permitted recycling facility. Recyclables shall not be placed in the same garbage can or other container as, or mixed with, municipal waste for collection, removal or disposal.
3. Recyclables may be set out for collection in a manner designated by an authorized collector as approved by the Township, or delivered to the bi-monthly drop off run by the Township.

SECTION 6 REMOVAL OF RESIDENTIAL MUNICIPAL WASTE AND RECYCLABLES.

1. All owners or occupants of residential properties shall enter into contracts with a licensed private hauler to collect municipal waste at curbside or some appropriate location on the premises, designated by the private hauler, to be collected at times designated by the private hauler. A copy of the contract shall be maintained for a minimum of one calendar year. Those who dispose of their own municipal waste shall obtain weigh slips and shall maintain records of every disposal (and the weigh slips for same) for a period of at least one (1) calendar year for review by the Township upon request for same. Failure to maintain such records shall constitute a violation of the terms of this Ordinance (in addition to any other violations). Any owner or occupant of a residential property who arranges to dispose of his or her municipal waste with another who has made arrangements in accordance with this subsection, must have a written agreement with that other party documenting the arrangement and establishing that the other party is in

compliance with the requirements of this Ordinance. The frequency of collecting municipal waste from or by the owners or occupants of residential properties shall be not less than once per calendar month.

2. All owners or occupants of residential properties shall dispose of recyclables according to the procedures designated by the private hauler or shall use the drop off point of the Township Recycling Center and shall create and maintain a written record for review by the Township of any disposal of recyclables (identifying the date of any disposal, the quantity disposed and the place of disposal – including any documentation made available the facility providing for the collection of recyclables establishing such disposal). Failure to keep a written record regarding the disposal of recyclables shall be a separate violation of the terms of this Ordinance (in addition to any other violations).

SECTION 7. REMOVAL OF COMMERCIAL, MUNICIPAL, INSTITUTIONAL, AND COMMUNITY MUNICIPAL WASTE AND RECYCLABLES.

All owners or occupants of commercial, municipal and institutional establishments shall enter into contracts with a licensed private hauler to collect municipal waste and recyclables separately from the premises, designated by the private hauler, to be collected at times designated by the private hauler. The frequency of such collection shall not be less than once per calendar month.

SECTION 8. RECYCLING REPORTS FOR MULTIFAMILY HOUSING, COMMERCIAL, MUNICIPAL, INSTITUTIONAL PROPERTIES.

1. The landlord of every multi-family housing property and every commercial, municipal and institutional establishment shall complete a form to be designated "Recycling Report," to be provided by the Township, which shall indicate where the property's recyclables were delivered or picked up by whom. Such report shall provide information on the type and amount of each material recycled.

SECTION 9. PRIVATE HAULERS RECYCLING REPORTS.

All private haulers shall submit to the Township a recycling report and all weigh slips obtained from the facility of facilities to which the recyclables were delivered or taken. The said weigh slips shall indicate or estimate the weight of all

recyclables collected from within the Township. Each such quarterly recycling report shall be submitted on or before the last day of the first month of each quarter, for the preceding quarter. Quarters shall run on a calendar year basis, thus: January through March; April through June; July through September; and October through December.

SECTION 10. COLLECTION BY UNAUTHORIZED PERSON.

From the time of placement of residentially generated recyclable items for collection in accordance with the terms of this Ordinance, the items shall be and become the property of the private hauler. It shall be a violation of this Ordinance for any person unauthorized by the Township to collect or pick up or cause to be collected or picked up any such items. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

SECTION 11. PRESUMPTION OF OWNERSHIP OF MUNICIPAL WASTE AND RECYCLABLES.

The presence of any articles containing a person's name among municipal waste and recyclables shall create a refutable presumption, for purposes of this Ordinance that said municipal waste or recyclables are, or were, the property of the person whose name is found therein.

SECTION 12. TRANSPORTATION OF MUNICIPAL WASTE.

Any person transporting municipal waste within the Township shall prevent or remedy any spillage or leakage/prevention of leakage from vehicles or containers used in the transport of such municipal waste.

SECTION 13. AUTHORIZATION OF PRIVATE HAULERS.

1. It shall be unlawful for any person, except for litter control and/or roadside clean up personnel, and other persons licensed by the Commonwealth of Pennsylvania as per the amended Title 27 (Environmental Resources), Waste Transportation Safety Program, of the Pennsylvania Consolidated Statutes, to collect, haul, or transport municipal waste and recyclables. All such haulers shall comply with the provisions of Title 27, as well as all Federal, State, County and local laws and regulations to collect and to transport waste of any nature or recyclables within or from the Township. Authorization to

collect, transport and for proper disposition of municipal waste or recyclables for persons other than one's self or for whom one is acting as agent (as defined in this Ordinance) may be given only by the State of Pennsylvania through the issuance of a collector's license.

2. Nothing in this Section shall prohibit a duly organized and registered property owners association from assembling municipal waste at a central, accessible location within the confines of its development for ultimate collection as required herein.

SECTION 14. PRIVATE HAULER TO PROVIDE RECYCLABLE REMOVAL SERVICE FOR RESIDENTIAL, MULTIFAMILY HOUSING, COMMERCIAL, MUNICIPAL AND INSTITUTIONAL ESTABLISHMENT AND PROPERTIES.

All private haulers contracted for municipal waste collection shall offer such customers (residential, multifamily, commercial, municipal and institutional) the service of removing recyclables from their properties at the curbside or an appropriate location on the premises. Any such materials so removed by a private hauler shall be kept separate from municipal waste and shall be taken to a facility for the purpose of recycling. Failure to offer said services shall be a violation of this Ordinance.

SECTION 17. VESTED RIGHT.

No Grant of Vested Right. The issuance of a collector's license by the Commonwealth of Pennsylvania shall not grant vested right to any collector or a continued right to haul or collect municipal waste, recyclables or leaf and yard waste in the Township. The Township reserves the right to contract for municipal waste, recycling or leaf and yard waste collection services or to initiate the public collection of municipal waste, recyclables or leaf and yard waste.

SECTION 18. PRIVATE HAULER NOT TO ACCEPT UNLAWFULLY DISPOSED OF RECYCLABLES.

No private hauler shall accept, pick up or remove any bag or other container of municipal waste which the private hauler knows, or has reason to believe, contains recyclables, combined with municipal waste placed at curbside or

otherwise placed for pickup, and the private hauler shall affix a tax or sticker or take other appropriate means to identify any container containing recyclables.

SECTION 19. COMMUNITY ORIENTED CHARITABLE ACTIVITIES.

Nothing contained herein shall impair or prohibit any recognized civic, fraternal, charitable or benevolent organization, association or society from undertaking or sponsoring voluntary programs or projects involving the collection of recyclables from the public. Any such collection activity can only occur prior to the recyclable materials being placed at curbside or similar location for collection by a private hauler. Prior to initiating such activity, the organization shall obtain authorization from the Township.

SECTION 21. ILLEGAL TO BURN RECYCLABLES (EXCEPT FOR LEAF WASTE).

It shall hereafter be illegal to burn recyclables (except for leaf waste which may be burned in a controlled manner in accordance with safe practices provided that such burning does not violate any other regulation by the Township or any other authority with jurisdiction over the matter, and provided further, that leaf waste be burned only where the composting of leaf waste is not practicable under normal circumstances).

SECTION 22. VIOLATIONS AND PENALTIES.

Any person who shall violate any provision of this Ordinance shall upon conviction thereof, be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus costs. Each day that a violation of this Ordinance continues or each Section of this Ordinance, which shall be found to have been violated, shall constitute a separate offense. For purposes of this Ordinance, the doing of an act or thing prohibited by any provision of this Ordinance or the failure to do any act or thing or to which any provision of this Ordinance creates an affirmative duty shall constitute a violation of this Ordinance, punishable as herein stated.

Private haulers who shall violate any provision of this Ordinance may be reported to the State of Pennsylvania Department of Environmental Protection, by the Township, and may be subject to revocation of State authorization to transport

municipal waste, as described in the amended Title 27 (Environmental Resources), Waste Transportation Safety Program, of the Pennsylvania Consolidated Statutes.

SECTION 23. RECYCLING COORDINATOR.

1. The Township Supervisors shall at the annual organizational meeting in January designate for the upcoming year the appointment of a recycling coordinator.
2. The duties of the recycling coordinator shall include but not be limited to the following, (subject to further duties as may be prescribed by the Board of Supervisors):
 - a. Devising and implementing a residential and business recycling education program.
 - b. Arranging for the participation of the Township in LACKAWANNA County programs for the recycling of special materials.
 - c. Devising and implementing a program to address illegal dumping and littering.
 - d. Monitoring participation by owners and occupants of residential, commercial, municipal and community establishments; receiving recycling reports; receiving complaints; and advising the Board of Supervisors and Codes Enforcement Officer on issuing warnings and penalties.

SECTION 24. CONSTRUCTION.

The various headings used throughout this Ordinance are intended only as an aid in its organization, in order to facilitate ease of reading, and are not to be considered a substantive part of this Ordinance. In this Ordinance, unless the context clearly indicates otherwise, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and neuter.

SECTION 25. SEVERABILITY.

The provisions of this Ordinance are severable, and if any section, clause, sentence, Ordinance or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or

unconstitutional section, clause, sentence, part or provision had not been included herein.

SECTION 26. REPEALER.

All other Ordinances or Resolutions or any parts thereof, which may conflict with or are inconsistent with this Ordinance are hereby repealed and replaced with this Ordinance.

ADOPTED this 21ST day of OCTOBER 2010, by the Board of Supervisors of SCOTT Township and effective five (5) days hereafter.

ATTEST:

Thomas W. Wicks
Secretary

SCOTT TOWNSHIP

James J. Slack
Chairman

Dail
Supervisor

Supervisor