

**PENN TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2011 - 004

AN ORDINANCE OF PENN TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA AMENDING ORDINANCE 2009-004 REGULATING THE COLLECTION, STORAGE AND DISPOSAL OF GARBAGE; PROVIDING FOR THE AUTHORIZATION OF A TOWNSHIP COLLECTOR; AND PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, Penn Township has the authority, pursuant to 53 P.S. §66506, Act of May 2, 1993, P.L. 103, No. 69, as amended, to adopt any ordinance necessary for care and control of Penn Township and the maintenance of health and welfare of its citizens;

WHEREAS, Penn Township, pursuant to 53 P.S. § 67102, Act of May 1, 1933, P.L. 103 No. 69, as amended, has the authority to enter into contracts to collect and remove garbage, solid waste or other refuse and prescribe penalties for the enforcement thereof;

WHEREAS, Penn Township believes that it is in the best interest of Penn Township, its residents and the environment to enact a mandatory garbage collection program.

NOW THEREFORE, BE IT ENACTED AND ORDAINED AS FOLLOWS:

ARTICLE I. GENERAL

SECTION 1: SHORT TITLE

This Ordinance shall be known and may be cited as the "Penn Township Collection Ordinance".

SECTION 2: PURPOSE

The purpose of this Ordinance is to provide for the health, safety and welfare of the residents of Penn Township by regulating the collection, storage, transportation, removal, dumping, deposit and disposal of solid waste by instituting a comprehensive solid waste management program.

SECTION 3: DEFINITIONS

The following words and terms when used in this Ordinance shall have, unless the context clearly indicates otherwise, the meaning given to them in this Section:

Garbage – All matter and materials which are discarded or rejected by the owners or producers thereof as offensive or useless, or which by their presence or accumulation may injuriously affect the health, comfort or safety of the citizens of Penn Township. It shall include garbage, rubbish, trash and other refuse materials, but shall exclude human body waste, debris from household renovations, whether interior or exterior, dirt, rock, lead pipe, limbs, the trunks of trees, hazardous wastes, tires, appliances, and ashes.

Hauler – The person or entity licensed by Penn Township by means of an independent contract to have the right and privilege, subject to certain limitations, to collect, haul and/or dispose of solid waste and recyclables within Penn Township, but shall not be construed as meaning that such person is an agent, employee, official or representative of the Township.

Mandatory participation – Every landowner in Penn Township participating in the solid waste collection program initiated by the Township with the authorized hauler.

Person – Every natural person, firm, corporation, partnership, association, institution or other entity.

Public Nuisance – Any premises or part of premises which is capable of being a fire, health or safety hazard due to, but not limited to accumulation of flammable materials, solid waste, hazardous waste; or any premises or part thereof which contains unauthorized accumulation of solid waste.

Residential dwelling unit – A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Toter cart – A 90-99 gallon container to be distributed by the hauler and will remain the property of the hauler.

Township – Penn Township, Cumberland County, Pennsylvania.

Township Collection Service – A service for the collection of solid waste in accordance with this Ordinance.

Truck – A motor vehicle used for the collection of solid waste on which has mounted thereon an approved type, watertight sanitary body, or which has a standard truck body made watertight and equipped with means of covering to prevent loss of material by wind.

ARTICLE II. MANDATORY PARTICIPATION, COLLECTION PRACTICES AND DISPOSAL

- A. All owners or occupants of residential dwelling units within Penn Township are required to provide for the regular preparation, collection and removal of garbage generated at such properties via the Township and its designated hauler in one of the following manners:
1. "Full service" by weekly disposal utilizing a tote provided by the Hauler;
 2. "Full service" by weekly disposal via utilizing a maximum of 2 garbage cans or 6 bags of 33 gallons each;
 3. Purchase of and use of 33 gallon bags on an "as needed" basis, (subject to a minimum requirement set forth in subparagraph F below), specially designated as such.
- B. Effective July 1, 2011, garbage from all residential buildings within the Township shall be collected by the authorized Township Hauler on a weekly basis. Garbage shall be collected in one of the manners stated in A above.
- C. Penn Township shall, via written Resolution, establish a fee schedule for each service option. The fee schedule may be amended at any time via Resolution.
- D. Failure to participate, or termination of service for non-payment to the Hauler, shall be a violation of this Ordinance and punishable as hereinafter described in Article IV hereof.
- E. Those persons, households and/or residential buildings selecting the flat rate service shall be billed a fixed charge by the Township and payable directly to Penn Township. Billing by Penn Township may be in advance of service. Participants in the flat rate system shall receive 90-99 gallon toter cart to be distributed by, and remain the property of the Hauler. Garbage generated in excess of the 90-99 gallon capacity shall be placed in trash bags identified with tags or other distinguishing marker sold by the Hauler. Any such bags in excess of the 90-99 gallon capacity of the toter cart shall be subject to an additional charge by the Hauler. Such charge shall be the same per bag cost as the per bag cost under the per bag system of collection.
- F. Those persons, households and/or residential buildings selecting the per bag collection service shall purchase bags from Penn Township. Participants in the per bag system shall be required to purchase a minimum of 18 bags per year.

G. An owner or occupant may, at the discretion of Penn Township, be granted an exemption. An owner or occupant seeking exemption shall make application in writing on a form provided by Penn Township.

H. SECTION 1: Collection Practices for Apartment Buildings, Townhouse Complexes, Condominium Complexes, Mobile Home Parks and Similar Complexes

On or after July 1, 2011, the owner, landlord, or an authorized agent of an owner or landlord of an apartment building, townhouse complex, condominium complex, mobile home park or similar complexes shall establish a collection system at each property by contracting with the Township Hauler for collection of said items.

Failure of the owner or occupier of property to provide for the collection of solid waste and for recyclable materials as set forth in this article shall constitute a violation subject to penalty and enforcement as provided by Article V.

I. The customer shall place the garbage at the mailbox.

J. All bags containing garbage shall be tied shut.

K. Neither hazardous waste nor any other materials not meeting the definition of "garbage" shall be placed in containers or bags for regular collections but rather shall be handled and disposed of in an alternate and safe manner and in accordance with all applicable federal, state, and local statutes, ordinances, rules and regulations.

L. It shall be unlawful for any person unauthorized by Penn Township to collect or remove garbage items from any other person's property. Any and each collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

ARTICLE III. ESTABLISHMENT OF A SOLID WASTE DISPOSAL PROGRAM; PREPARATION OF SOLID WASTE

SECTION 1: PREPARATION, STORAGE AND COLLECTION OF GARBAGE

I. Preparation of garbage:

(1) Preparation for collection:

(a) All garbage shall be drained of liquids before being deposited for collection and shall be separated and stored apart from recyclable materials.

(b) Glass and plastic containers shall have caps and lids removed.

- (c) Glass, cans and plastics shall be rinsed free of contaminants.
- (d) All materials shall be otherwise prepared for collection in accordance with such regulations as are established by the Township.

II. Containers:

- (1) Containers to be collected by the Township Licensee or Hauler:
 - (a) All garbage, to be regularly collected by the Township Licensee or Hauler shall be placed in 33 gallon plastic bags purchased by individual residents for such use or trash can be placed in 90-99 gallon toter, as provided by hauler without the use of bags.
 - (b) Bulky waste shall be included in an annual clean-up to occur in June or an alternate time decided upon by Hauler or Township each year. The collection of such bulky waste shall be subject to the restrictions and requirements of the Hauler.
 - (c) All garbage placed for collection shall be enclosed entirely within the 30-33 gallon plastic bag purchased by individual residents for such use, except for toter use or into the toter provided by the Hauler in which no bags are required. Solid waste placed in the bag shall be in such a quantity that the plastic bag can be tied closed and all contents thereof completely confined within the bag. Taping and/or cutting of bags for the purpose of depositing therein solid waste in an amount of excess of the bag's intended capacity is prohibited.
 - (d) Ninety to ninety-nine (90-99) gallon solid waste carts (totter carts) shall be delivered by the Hauler to those residents selecting the flat rate system. Such toter carts shall remain the property of the Hauler.

No manner of containing garbage for collection shall be unnecessarily offensive to the senses, and provide further that approved bulk containers of metal, watertight and tight-fitting covers, may be used for commercial and institutional solid waste and recyclables and waste from apartment buildings and townhouse complexes, and that in the case of bulky waste being by its nature impractical of containment and incapable of causing litter, no container shall be required for collection purposes.

ARTICLE IV: PENALTIES FOR VIOLATION; ENFORCEMENT

SECTION 1. PENALTIES

Any person violating any of the provisions of this Ordinance, or, who assists in the violation of this Ordinance, shall be subject to a fine of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, plus cost of prosecution, including reasonable attorney's fees, to imprisonment for a term not exceeding thirty (30) days. Every violator of the provision of this Ordinance shall be deemed guilty of a separate offense each and every day such violation continues and shall be subject to the penalty imposed by this Section for each and every separate offense.

It shall be in violation of this Ordinance for any person to interfere with a Township Licensee(s) or Hauler in its performance of collection, transporting and/or disposing of recyclable materials and/or solid waste.

Any premises on which conditions of waste exist causing it to be a public nuisance is prohibited. Failure to resolve or remedy said public nuisance after receiving written notice to do so shall be deemed a violation of this Ordinance punishable as herein provided.

The presence of any articles containing a person's name among solid waste or recyclables shall create a rebuttable presumption that solid waste or recyclables are the property of the person whose name is found therein. This presumption can only be rebutted by clear and convincing evidence to the contrary.

Nothing herein is intended to preclude the Township's exercise of any additional remedies in law or equity, for noncompliance with this Ordinance.

SECTION 2: ENFORCEMENT

The Code Enforcement Officer or any other agent designated by Penn Township shall have the authority to enforce the provisions of this Ordinance.

ARTICLE IV: ADMINISTRATIVE PROVISIONS

Township may, by Resolution, enact provisions necessary for administration of this Ordinance.

ARTICLE V: SEVERABILITY

If any section, subsection, clause, or phrase of this Ordinance is held unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this Ordinance.

ARTICLE VI: EFFECTIVE DATE

This Ordinance shall be effective on July 1, 2011.

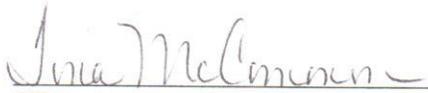
ARTICLE VII: REPEALER

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

DULY ENACTED AND ORDAINED this 9th day of June 2011, by Penn Township, Pennsylvania in lawful session duly assembled.

ATTEST:

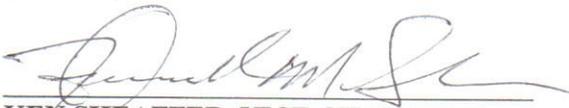
**PENN TOWNSHIP BOARD
OF SUPERVISORS**



TINA McCOMMON, SECRETARY

By: 

GARY MARTIN, CHAIRMAN

By: 

KEN SHEAFFER, VICE CHAIRMAN

By: 

AMOS SEIDERS, SUPERVISOR

CERTIFICATE

I, the undersigned, Secretary of Penn Township, Cumberland County, Pennsylvania (the "Township"), certify that the foregoing is a true and correct copy of an Ordinance of Penn Township which was duly enacted by affirmative vote on a majority of the members of the Supervisors of Penn Township at a meeting duly held on Thursday, June 9, 2011; that said Ordinance has been duly recorded in the Ordinance Book of Penn Township; that a summary of the Ordinance was duly published on Wednesday June 1, 2011, as required by law in a newspaper of general circulation in the Township; that copies of the complete text of the Ordinance were distributed to the publishing newspaper, Penn Township, and the Cumberland County Commissioner's Office; and that said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the meeting at which Penn Township adopted said Ordinance was a public meeting duly held after giving public notice of the date, time and place of such meeting by posting, publishing and mailing such notice at the time and in the manner required by Act No. 84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986, known as the "Sunshine Act".

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 9th day of June 2011.

ATTEST:


TINA McCOMMON, SECRETARY

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OF SUPERVISORS**

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