

**ORDINANCE NO. 2013-05**

**AN ORDINANCE OF THE TOWNSHIP OF MAXATAWNY, BERKS 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; PROHIBITING THE DISPOSAL OF DESIGNATED RECYCLABLE MATERIALS AND LEAF WASTE WITH MUNICIPAL WASTE; PROHIBITING THE BURNING OF DESIGNATED RECYCLABLES AND LEAF WASTE; EMPOWERING MAXATAWNY TOWNSHIP TO ADOPT AND PROMULGATE REASONABLE REGULATIONS THEREOF; FIXING PENALTIES FOR VIOLATION OF THIS ORDINANCE**

**RECYCLING**

**SECTION 1. INTENT.**

- A. All domestic, municipal, commercial, institutional and industrial recyclables accumulated upon any property within Maxatawny Township shall be collected and removed by a private hauler who shall be permitted by the State of Pennsylvania. Waste shall be disposed of in accordance with the Solid Waste Management Act and the Berks County Solid Waste Management Plan.
- B. 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 Maxatawny Township. It contains regulations applicable to collectors of municipal waste, collectors of recyclables, individuals, commercial, municipal and institutional establishments, and community activities.

## SECTION 2. PURPOSE.

- A. Ordinance to establish a program for the mandatory collection of municipal solid waste, the source-separation and separate collection of designated recyclable materials, and leaf waste, from residences and properties within the Township of Maxatawny for disposal, recycling and composting purposes; to prohibit the disposal of designated recyclable materials into the conventional municipal waste disposal system; to empower the Township to promulgate and adopt reasonable rules and regulations therefore, and to fix penalties for violation of this Ordinance.

## 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:

**AGENT** - one who performs an act for his immediate family or for another person as defined in this Ordinance, with or without compensation.

**AGRICULTURAL OPERATION** - The business of producing food products or other useful or valuable growths or crops by tilling and cultivating the soil, and by breeding, raising and feeding cattle, livestock, bees, poultry or other animals that produce a food product or are themselves a food product. For example, the commercial raising of mushrooms is farming, but gardening and similar noncommercial activities are not farming as anticipated in Section 5(B) of the Township Burning Ordinance.

The following are not included within the definition of agriculture:

(A) The breeding or raising of dogs, cats and other pets; or game animals, birds, fish or other animals intended for use in sporting or recreational activities such as, but not limited to, hunting, fishing, show competition and racing.

(B) The operation of stockyards or slaughterhouses.

**ALUMINUM CANS** - empty, all-aluminum beverage and food containers.

**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.

**BI-METALLIC CANS** - empty food or beverage containers consisting of both steel and aluminum.

**BULK ITEMS** - any large durable goods such as refrigerators, washing machines, window air conditioners, hot water heaters, dishwashers and any other major home appliances in addition to other large bulk items such as dressers, beds, mattresses, sofas, televisions sets and other large household items.

**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.

**COMMINGLE or COMMINGLED RECYCLABLES** - recyclables mingled or blended together, placed in the same container.

**COMMUNITY ACTIVITY** - events sponsored in whole or in part by a municipality, or conducted within a municipality and sponsored privately, which include, but are not limited to, fairs, bazaars, socials, picnics and organized sporting events that will be attended by 200 or more individuals per day.

**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 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.

**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.

**DEVELOPMENT** - a recorded residential subdivision in which homeowners are members of a duly organized, validly existing property owners association or corporation and which has been recognized by and registered with the Board of Supervisors of Maxatawny Township, as required by this Ordinance.

**DISPOSAL** - the incineration, deposition, 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.

**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, Maxatawny 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 with 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 CONTAINERS** - empty plastic food and beverage containers, the specific types of which are:

#1 PET (e.g., soft drink bottles).

#2 HDPE (e.g., milk and water jugs, detergent and shampoo bottles and similar items).

#3 PVC (Garden hose, cable sheathing, window frames, blister packs)

#4 LDPE (Heavy duty bags, dry cleaning bags, bread bags, squeezable bottles)

#5 PP (Medicine bottles, cereal liners, packing tape, straws, potato chip bags)

#6 PS (CD and video cases, plastic cutlery, foam packaging, egg cartons)

**PRIVATE HAULER** - a person licensed by the State of Pennsylvania under ACT 90, Waste Transportation Safety Program, of the Pennsylvania Consolidated Statutes, to collect haul transport municipal waste and recyclables. All such haulers shall comply with the provisions of Act 90, as well as all Federal, State, County and local laws and regulations and shall be registered with the Townships to their licensure in order to provide collection services in the Township.

**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).

**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** - Maxatawny Township, Berks 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.

**YARD WASTE** – Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material.

#### **SECTION 4. DUMPING; LITTER.**

- A. 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.
- B. Every owner of property or occupant thereof responsible for such property's day-to-day operation or maintenance shall pick up and discard in any appropriate receptacle any municipal waste, recyclables or other debris and place same at the curbside location or on the sidewalk or gutter in front of or adjacent to their property. All owners or operators 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.

- C. Nothing contained herein shall prohibit a duly constituted property owners association or corporation including the owner of any multifamily residential dwelling or duly reorganized Institution 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, intuitional boundaries or subdivision, as defined herein, lawfully recorded and recognized as such.
- D. 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.
- E. 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 and may also be deemed a violation of other Ordinances of the Township whose penalties shall be cumulative and not exclusive.
- F. No waste or recyclables shall be allowed to neither 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.
- G. From time to time, the Township Supervisors may, by resolution, enumerate alternative recyclables, which will require to be separated from municipal waste and collected in accordance with this Ordinance.

## **SECTION 5. OPEN BURNING.**

- A. No person shall ignite, cause, feed, permit or maintain any open fire for the destruction of solid waste or recyclables, to include leaf waste, designated in this Ordinance on any property under his control, except as hereinafter provided or as set forth in the Township's Burning Ordinance. In the case of any conflict between the Provisions of this Ordinance and the Township Burning Ordinance, the stricter provisions shall apply. Moreover, nothing in this Ordinance shall

replace the requirements for burning permits, as needed, by any other Township Ordinance.

B. Exceptions to Open Burning Prohibition

- (1.) Open fires may be set in the performance of an official duty of any public officer if the fire is deemed necessary for the prevention of a fire hazard which cannot be abated otherwise; and for the protection of public health.
- (2.) No open burning shall occur during any fire ban emergency declared pursuant to this provision.
- (3.) Nothing contained herein shall prohibit an agricultural operation from carrying out the normal activities of its agricultural operation, provided such activities are conducted in accordance with all applicable laws, rules, regulations and Township Ordinances.
- (4.) Campfires and wood fires for food preparation.

**SECTION 6. SEPARATION OF RECYCLABLES.**

A. Recyclables and leaf waste shall be kept separate from municipal waste, for the purpose of recycling and composting respectively, to the extent required by the following provisions:

- (1.) Owners and occupants of all residential properties shall keep separate the following recyclables: clear glass containers, brown glass containers, green glass containers, aluminum cans tin cans, plastics 1 and plastics 2, and newspapers. Leaf waste is required to be separate for the purpose of composting.
- (2.) Owners and occupants of all commercial, municipal and institutional establishments and properties and sponsors or organizers of community activities shall keep separate the following recyclables: clear glass containers, brown glass containers, green glass containers, aluminum cans, corrugated paper, newspapers, magazines and high-grade office paper. Leaf waste shall also be kept separate for the purpose of composting.

- (3.) Additionally, the Township Supervisors may, by Resolution enumerate additional recyclables that will be required to be separated from municipal waste and collected in accordance with this Ordinance.
- B. Corrugated paper shall be placed in easy-to-manage bundles not to exceed (50) fifty-pounds and kept dry. Glass containers and aluminum cans shall be emptied and cleaned. Aluminum cans and glass containers may be mixed together and placed in containers initially provided by Maxatawny Township with replacement containers to be supplied by the property owner. High-grade office paper shall be placed in boxes not to exceed (50) fifty-pounds. Recyclables shall not be placed in the same garbage can or other container as or otherwise mixed with, municipal waste for collection, removal or disposal. Recyclables shall not be placed in plastic bags or other disposable bags or containers made of polyethylene or other similar base.
- C. Recyclables may be set out for collection in a manner different from the requirements in paragraph B (above) if an alternative manner is designated by the authorized collector that is approved by the Township.

#### **SECTION 7. SEPARATION OF LEAF WASTE.**

- A. Unless otherwise provided for composting, all persons shall keep leaf waste separate from all other forms of municipal waste and separate from recyclables. Such waste shall be set out for collection in a manner to be designated by the private hauler and shall be delivered by the private hauler to a leaf composting facility operating in accordance with Pennsylvania Department of Environmental Protection's Regulations and Guidelines for Leaf Composting Facilities. Nothing herein shall require any person to gather leaf waste or prevent any person from utilizing leaf waste for compost, mulch, or other agricultural purposes.

#### **SECTION 8. PLACEMENT FOR REMOVAL OF RESIDENTIAL RECYCLABLES (OTHER THAN MULTIFAMILY HOUSING PROPERTIES).**

- A. For residential properties other than multifamily dwellings, all recyclables, which are required to be kept separate from municipal waste in residential properties, shall be placed at curbside or some appropriate location on the premises, designated by the private

hauler, to be collected at times designated by Resolution of the Township. The frequency of such collection shall be not less than once per calendar month.

- B. All recyclables shall be collected by a private hauler.
- C. Waste collection procedures and services shall be supplied to the Township upon request in order to confirm compliance with this Ordinance and/or for enforcement purposes.

**SECTION 9. PLACEMENT FOR REMOVAL OF RECYCLABLES FROM HOUSING MULTIFAMILY PROPERTIES.**

- A. For multifamily dwellings, all recyclables, which are required to be kept separate from municipal waste in residential properties, shall be picked up by a private hauler separately from municipal waste, in a prearranged manner. . The owner, landlord or agent or, when appropriate, the board of directors, of every multifamily dwelling shall require, by a clause in the lease or other enforceable rule or regulation, that the tenants in such property comply with the requirements of this Ordinance governing separation and/or placement for removal of recyclables in multifamily dwellings. Every such landlord shall set up a convenient and practical collection system in such properties for the collection, storage and placement for removal of recyclables generated by the residents of such properties.
- B. The collection system must include suitable containers for collection and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system.
- C. Owners, landlords and agents of owners or landlords who comply with the aforementioned requirements relative to multifamily dwellings shall not be liable for the noncompliance of occupants of their building.
- D. Waste collection procedures and services shall be supplied to the Township upon request in order to confirm compliance with this Ordinance and/or for enforcement purposes.

**SECTION 10. PLACEMENT OF RECYCLABLES COMMERCIAL, MUNICIPAL, INSTITUTIONAL AND COMMUNITY ACTIVITIES.**

- A. All recyclables, which are required to be kept separate from municipal waste in commercial, municipal and institutional establishments and properties and community activities, either shall be delivered directly to a recycling center or shall be picked up by an authorized private hauler separately from municipal waste, in a prearranged manner. Commercial, municipal and institutional establishments and community activities shall not place recyclables within or near the public right-of-way for curbside collection, such curbside collection being intended solely for the placement of recyclables generated in residential properties other than multifamily housing properties.
- B. Waste collection procedures and services shall be supplied to the Township upon request in order to confirm compliance with this Ordinance and/or for enforcement purposes.

**SECTION 11. RECYCLING REPORTS FOR MULTIFAMILY HOUSING, COMMERCIAL, MUNICIPAL, INSTITUTIONAL PROPERTIES AND COMMUNITY ACTIVITIES.**

- A. The landlord of every multi-family housing property and every commercial, municipal and institutional establishment and community activity sponsor 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.
- B. The recycling report and all weigh slips obtained from the facility or facilities to which the recyclables are delivered or taken shall be submitted annually to the Township. For purposes of submitting such weigh slips and recycling reports annually to the Township, the private hauler who removed the recyclables from the property may be the agent for the landlord, operator of the establishment or sponsor of the activity and shall be responsible for completing and submitting such to the Township. Each such annual recycling report shall be submitted on or before the last day of January for the preceding year.

**SECTION 12. PRIVATE HAULERS RECYCLING REPORTS.**

- A. All private haulers shall register with the Township in order to be eligible for hauling services of municipal waste or recycling. The criteria to obtain a registration including, eligibility and other criteria will be established from time to time by the Township.
- B. All private haulers shall submit to the Township a recycling report and all weight slips obtained from the facility or facilities to which the recyclables were delivered or taken. The said weight slips shall indicate the weight of all recyclables collected from within the Township. Each such annual recycling report shall be submitted on or before the last day of January, for the preceding year.

**SECTION 13. COLLECTION BY UNAUTHORIZED PERSON.**

- A. 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 14. PRESUMPTION OF OWNERSHIP OF MUNICIPAL WASTE AND RECYCLABLES.**

- A. 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 15. PREPARATION AND STORAGE OF MUNICIPAL WASTE AND RECYCLABLES.**

- A. Any person accumulating or storing municipal waste or recyclables on private or public property within the Township, including recyclables assembled within a commercial, institutional, industrial or multifamily development, for any purpose whatsoever shall place the same, or cause the same to be placed, in a closed or covered sanitary container, in accordance with the following standards:

- (1.) Containers used for the storage of municipal waste shall be of plastic construction, equipped with lids and waterproof. All such containers shall be approved by the Township as established by Resolution.
- B. No person, except the occupants of the property on which a waste container is placed, a private hauler, the Township Zoning Officer or such other person as the Township may designate and are duly authorized agent or representative of property owners association or corporation recognized as such by the Township, shall remove the lids of the container and/or remove the contents thereof.
- C. All recyclables will be placed in the above-mentioned containers. Prior to such placement, all plastic containers shall have the tops removed. All containers shall be rinsed and cleaned prior to placement in the recycling container for curbside pickup.

**SECTION 16. REQUIRED COLLECTION.**

- A. Every owner of property in the Township of Maxatawny shall contract with an individual, entity or firm which is a licensed, registered Hauler by the Township of Maxatawny and the Commonwealth of Pennsylvania to have all Municipal Waste generated on the premises by any of the occupants of the premises removed and deposited at a Commonwealth of Pennsylvania designed disposal facility on a weekly basis or more often.
- B. If a person or establishment (being so authorized by the terms hereof) collects and removes their own municipal waste and/or recyclables, they shall do so at a minimum of every 30 days, or at shorter intervals, as necessary, in order to prevent odors, vectors or accumulations of refuse or garbage that are unsafe, unsightly or potentially harmful to the public health. Any municipal waste so removed shall be disposed of in accordance with the requirements of this Ordinance. Property owner must provide annual reports on the amount municipal waste and recyclables transported to either a designated disposal facility and/or recycling center that were transported the prior year.
- C. No person other than a private hauler shall collect or remove municipal waste or recyclables from any other person's property unless otherwise provided for herein. All agreements for collection, transportation and disposition of municipal waste and/or recyclables shall be by private contract between the owner or occupant of the

property where the material is generated or on their behalf by a properly authorized property owners association and the private hauler who is to collect it.

- D. Nothing herein shall limit the right of the Township to implement public collection of solid waste and/or recyclables either by entering into contracts or by engaging in any collection practice permitted by law.
- E. Nothing in this Section shall modify the requirements of this Ordinance pertaining to separation and collection of recyclables.
- F. Any person or establishment performing self collection of municipal waste shall register with the Township.

#### **SECTION 17. TRANSPORTATION OF MUNICIPAL WASTE.**

- A. Any person transporting municipal waste within the Township whether private haulers, municipal haulers or persons pursuant to Section 16(A), shall prevent or remedy any spillage or leakage/prevention of leakage from vehicles or containers used in the transport of such municipal waste.
- B. All private haulers shall be required to collect and remove municipal waste In motor-driven vehicles having enclosed, metal, leak proof bodies with metal covers or covers made of such material as to prevent the contents from escaping.
- C. The transfer of waste from one collection vehicle to another may not take place in the Township, except on private property in those areas of the Township designated for such by the Township, if any. No such transfer may take place on any public right-of-way, and no such transfer operation may block traffic, create litter or in any other manner constitute a nuisance, create a health hazard or violate any other ordinance of the Township or provision of statutory law.

#### **SECTION 18. PUBLIC LITTER BASKETS.**

- A. The Township is hereby authorized to collect municipal waste from the Township property, to provide public litter baskets in the Township and to dispose of such waste in either a receptacle of a private hauler or at designated disposal sites.



## **SECTION 19. DEVELOPMENTS/PROPERTY OWNERS ASSOCIATIONS.**

- A. Where a property owners association desires to provide curbside collection of municipal waste and/or recyclables, to include leaf waste (consistent with the requirements of this Ordinance), and to deliver same to a central accessible location for collection by a private hauler, the said property owners association shall, as a condition of such authorization, comply with the following:
- B. Provide a Collection Plan to the Township, providing such documentation and information as the Township may prescribe by Resolution relative to curbside collection of municipal waste, recyclables and leaf waste.
- C. Indicate the exact position of the central, accessible location where municipal waste, recyclables and/or leaf waste are to be assembled for collection by a private hauler.
- D. Specify the identity of the private hauler responsible for municipal waste, recyclables and/or leaf waste collection and the facility used for deposition of the material collected.
- E. Update all the above information on an annual basis.
- F. Notify the Township within five business days of any change in any of the above prescribed information.

## **SECTION 20. AUTHORIZATION OF PRIVATE HAULERS.**

- A. It shall be unlawful for any person, except for litter control and/or roadside clean up personnel, persons removing municipal waste from their own property and other persons licensed by the State of Pennsylvania as per Act 90, Waste Transportation Safety Program, of the Pennsylvania Consolidated Statutes, to collect, haul and/or transport municipal waste and recyclables. All such haulers shall comply with the provisions of Act 90, 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.

- B. 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 21. RESPONSIBILITIES OF PRIVATE HAULERS.**

- A. Private haulers shall have an affirmative duty to follow and conduct themselves in accordance with their current license or registration and to service each of their customers in accordance with their current license or to service each of their customers in accordance with the requirements of this Ordinance, any failure of which shall be a violation of this Ordinance.
- B. The private hauler shall have placed on the doors or each side of the body of each vehicle the name of the hauler, the telephone number of the hauler's office or headquarters, and the type of waste being transported therein (or, if recyclables are being transported therein, then such to be indicated). The size of such lettering shall be no less than six (6) inches in height and clearly legible. Vehicles shall be so marked within ten (10) days after the commencement of their use in the Township.
- C. Private haulers shall empty bulk containers (such as dumpsters) which have been provided by them to their customers, within 24 hours of receiving notice that such bulk containers become full.
- D. Private haulers shall furnish and provide collection and disposal of municipal waste and/or recyclables in accordance with the terms of this Ordinance and any Resolution prescribing the regulation hereof.

**SECTION 22. PRIVATE HAULERS AS AN INDEPENDENT CONTRACTOR.**

- A. Any person granted a license by the State of Pennsylvania shall not in any manner be construed as an agent, servant or employee of Maxatawny Township but shall, at all times, be considered and remain an independent contractor. Likewise, no property owners association or corporation who assembles municipal waste or recyclables within a development shall be construed as an agent, servant or employee of Maxatawny Township.

**SECTION 23. EQUIPMENT OF THE PRIVATE HAULER.**

- A. All private haulers shall be required to collect and remove Municipal waste and/or recyclables in motor-driven vehicles having enclosed, metal, leak proof bodies with metal covers or covers made of such material as to prevent the contents from escaping.

**SECTION 24. DISPOSAL.**

- A. Each private hauler shall have a valid agreement, not subject to cancellation, covering the use of an appropriate disposal facility in accordance with the Berks County Solid Waste Management Plan, or such other law, as may be applicable which governs the use and maintenance of any such disposal facility.

**SECTION 25. PRIVATE HAULER TO PROVIDE RECYCLABLE REMOVAL SERVICE FOR RESIDENTIAL, MULTIFAMILY HOUSING, COMMERCIAL, MUNICIPAL AND INSTITUTIONAL ESTABLISHMENT AND PROPERTIES.**

- A. All private haulers contracted for municipal waste collection shall offer such customers (residential, multifamily, commercial, municipal and institutional) the service of removing recyclables and leaf and yard waste (as defined in this Ordinance) 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 respective purpose of recycling or composting. Failure to offer said services shall be a violation of this Ordinance.

**SECTION 26. DESIGNATION OF RECYCLING OR COMPOSTING FACILITY.**

- A. The Township reserves the right, by resolution, to direct recyclables and or leaf and yard waste to a designated facility.

**SECTION 27. VESTED RIGHT.**

- A. No Grant of Vested Right. The issuance of a collector's license by the State 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 28. PRIVATE HAULER NOT TO ACCEPT UNLAWFULLY DISPOSED OF RECYCLABLES.**

- A. 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, the private hauler shall affix a tag or sticker to the container containing the recyclables.

**SECTION 29. MISSED PICKUP.**

- A. In the event any private hauler misses a pickup, the private hauler shall collect from the missed location within 24 hours of notification from the missed resident, provided the resident has abided by the terms of their contract with the private hauler.

**SECTION 30. COMMUNITY ORIENTATED CHARITABLE ACTIVITIES.**

- A. 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 31. VIOLATIONS AND PENALTIES.**

- A. 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 and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. 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.

- B. 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 Act 90 , Waste Transportation Safety Program, of the Pennsylvania Consolidated Statutes.

**SECTION 32. CONSTRUCTION.**

- A. 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 33. SEVERABILITY.**

- A. 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 34. REPEALER.**

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

**SECTION 34. EFFECTIVE DATE.**

This Ordinance shall become effective January 1, 2014. ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Township of Maxatawny, Berks County, Pennsylvania, this 6<sup>th</sup> day of November 2013.

BOARD OF SUPERVISORS OF  
MAXATAWNY TOWNSHIP, BERKS  
COUNTY, PA

Allen L. Leiby, Chairman

David R. Hoffman, Vice-Chairman

Melvin C. Fishburn, Member

Attest: Justin Yaich - Manager

(----- SEAL)