

**TOWNSHIP OF SOUTH MIDDLETON
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2019-01

**AN ORDINANCE REGULATING THE COLLECTION, STORAGE, DISPOSAL, AND
RECYCLING OF SOLID WASTE AND RECYCLABLES; PROVIDING FOR THE
AUTHORIZATION AND LICENSING OF TOWNSHIP COLLECTOR(S) FOR SOLID
WASTE AND RECYCLABLES; PROVIDING PENALTIES FOR VIOLATIONS OF
THIS ORDINANCE; AND MAKING A REPEAL**

WHEREAS, the Act of July 28, 1988 (Act No. 1988-101, known as the *Municipal Waste Planning, Recycling and Waste Reduction Act*, as amended) (Act 101) provides and requires that certain municipalities, including South Middleton Township, shall have the duty and power to adopt and implement programs for the collection and recycling of municipal solid waste and recyclables; and

WHEREAS, the Board of Supervisors of South Middleton Township feels that it is in the best interest of the Township, its residents, and the environment to become actively involved in recycling, to reduce solid waste, and to conserve our material and natural resources.

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors in and for the Township of South Middleton, as follows:

**Article I
General**

Section 101. Short Title

This Ordinance shall be known and may be cited as the "South Middleton Township Municipal Solid Waste and Recycling Ordinance."

Section 102. Purpose

The purpose of this Ordinance is to provide for the health, safety, and welfare of the residents of South Middleton Township by regulating the collection, storage, transportation, removal, dumping, depositing, disposal, and recycling of solid waste by instituting a comprehensive solid waste management program and establishing a mandatory recycling program pursuant to the requirements of Act 101 and amendments thereto.

Section 103. Construction

In the interpretation of this Ordinance, the provisions shall be construed as follows:

- A. Any term in the singular shall include the plural and *vice versa*, unless the context otherwise requires;
- B. Any term in the masculine shall include the feminine or other;
- C. Any reference or statement indicating the "Township" taking action, in an administrative, enforcement, or other official capacity, shall be construed as the Township official, department, or committee, designated by the Board of Supervisors, as taking such an action
- D. Any requirement or prohibition of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act; and
- E. In the enforcement of this Ordinance, no provision hereof shall make unlawful any act necessarily performed by any officer, employee, or agent of the Township in line of duty or work as such, or by any person, his agent, or employee, in the proper and necessary execution of the terms of any agreement with or employment of the Board of Supervisors or Township.

Section 104. 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:

Aluminum: The light weight, ductile, and malleable metallic substance or the chemical element commonly known as "Aluminum" (Atomic No. 13). The term shall include all aluminum food and beverage cans, but shall exclude aluminum foil, trays, plates, and miscellaneous aluminum products.

Apartment Building: A structure used for residential purposes with four (4) or more dwelling units, and any and all other multi-residential units including condominium units, excepting hotels, motels, tourist cabins, and dormitories.

Ashes: The residue from the burning of wood, coal, coke, or other combustible material for the purpose of heating and cooking.

Board of Supervisors: The Board of Supervisors of the Township of South Middleton.

Bulky Waste: Large items of solid waste and, therefore, require special handling, including but not limited to, large household appliances, such as stoves and refrigerators (with coolant removed), plumbing fixtures, furniture, large crates, mattresses, tools, machinery, or parts thereof.

Commercial Establishment: Any office building or structure which hosts non-manufacturing or non-processing businesses, including but not limited to convenience stores, markets, restaurants, shopping centers, and theatres.

Commingled: The placement of recyclable materials, as defined herein, except newspaper, corrugated cardboard, junk mail, and glossy paper in a special recycling container for the purpose of collection without their having been segregated by color or type.

Community Activity: Any event that is sponsored in whole or in part by the Township, or conducted within the Township and sponsored privately, which shall include but is not limited to fairs, bazaars, socials, picnics, craft fairs, and organized sporting events that will be attended by 200 or more persons per day.

Corrugated Cardboard: Layered paper or cardboard in which one or more layers is pressed into parallel grooves or ridges and which is normally used for wrapping, packing, shipping, and/or storage of dry materials. The term shall not include pressboard and cardboard commonly known as "asian board" or "asian cardboard," as well as any corrugated cardboard containing a shiny finished side or sides or which is contaminated with food or other material.

Covered Device: As that term is defined by the *Covered Device Recycling Act* (Act 108 of 2010).

Dwelling Unit: One or more rooms in a residential building which room or rooms have fixed cooking facilities arranged for occupancy by one or more persons living together, or one family. The term shall also be deemed to mean "unit" as set forth in this Ordinance.

Garbage: All table refuse, animal and vegetable matter, offal from meat, fish, and fowl, fruits, vegetables and parts thereof, and all other articles and materials ordinarily used as food which have become unfit for such use or which are for any reason discarded.

Glass: Any hard, brittle, transparent, or partially transparent substance produced by fusion of silica and silicates or sand containing soda and lime and/or other chemicals or substances usually included in the manufacturing of glass; and shall for the purposes of this Ordinance include all materials commonly known as "glass bottles" or "containers." The term shall include all food and beverage containers made of glass of one (1) gallon or less capacity, but shall exclude blue glass, ceramics, pottery, and flat glass commonly known as "window" or "plate glass," light bulbs, headlights, and mirrors.

Glossy Paper: Magazines and shiny newspaper inserts commonly used in advertisements.

Hauler: The solid waste and recyclables collection company authorized to collect solid waste and recyclables in the Township pursuant to contract with the Township.

Hazardous Waste: Any chemical, compound mixture, substance, or article which is designated by the United States Environmental Protection Agency (EPA) or appropriate agency of the Commonwealth of Pennsylvania to be "hazardous," as that term is defined by or pursuant to Federal or State law, and, for the purposes of this Ordinance, includes residual waste as that term is defined by or pursuant to the EPA and/or State or Federal law or regulation.

High Grade Office Paper: Printed or unprinted sheets, shavings, or cuttings of sulfite or sulfate ledger, bond, writing, or other paper having similar fiber or filler content, including but limited to stationary, copy paper, and computer paper, and excluding treated, coated, and padded stock.

Institutional Establishment: Any facility that houses or serves groups of people for a common purpose, such as hospitals, schools, and nursing homes.

Leaf Waste: Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. The term does not include a "recreational vehicle."

Mobile Home Park: Any parcel of contiguous land designed and improved for use by two (2) or more mobile homes.

Newspaper: Any type of paper made from wood pulp and/or other fibrous materials mixed together, whether with or without chemicals, to produce thin sheets of the products customarily and primarily used for the production of newsprint. The term shall not include magazines or any glossy paper insert commonly used in advertisements.

Paperboard: Any type of material used in cereal, soda, pasta, etc. boxes that can be torn.

Person: Any natural individual, firm, corporation, partnership, company, estate, joint stock association, institution, trust, or any other public or private association or entity. In any provision of this Ordinance prescribing a penalty, the term "person" shall include the individual partners of a partnership and the individual

officers and directors of any corporation, association, or other entity having officers and/or directors.

Plastics, Nos. 1 – 7: Shall include the following plastic types, narrow-necked containers only, without lids: polyethylene terephthalate, high-density polyethylene, polyvinyl chloride, low-density polyethylene, polypropylene, polystyrene, and other all plastics including acrylic, polycarbonate, polyactic fibers, nylon, and fiberglass.

Processing Center: Any facility maintained for the purpose of storing, preparing, and/or consolidating recyclable materials (as defined herein) for sale.

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

Public Property: Any facility owned, operated, or controlled by a government agency (Federal, State or Local - including a corporation created by law for the performance of certain specialized governmental functions and the Board of Public Education).

Recyclable Materials (or “Recyclables”): Clear and colored glass; aluminum cans, Plastics Nos. 1 through 7, narrow-necked containers only; newspaper; steel, tin and bimetallic cans; corrugated cardboard; glossy paper; high grade office paper, leaf waste; and such other materials as the Township may designate from time-to-time.

Recycling Collection Services: Those services to be performed by the Township Hauler as follows: (1) the collection and conveyance of recyclable materials; (2) processing of recyclable materials as applicable; and (3) marketing of the recyclable materials.

Residential building: Any occupied single- or multi-family dwelling having up to four (4) dwelling units per structure.

Solid Waste: 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, welfare, or safety of the citizens of South Middleton Township. The term shall include ashes, garbage, trash, and other refuse materials, but shall exclude human body waste, debris from household renovations, whether interior or exterior, dirt, rock, lead pipes, leaf waste, hazardous wastes, and recyclable items as defined herein.

Solid Waste Collection Services: Those services to be performed by the Township Collector which include the collection of solid waste from locations

specifically designated by the Township, transportation of solid waste in trucks, and disposal of solid waste at a facility licensed by the Pennsylvania Department of Environmental Protection (DEP) in accordance with the Cumberland County Municipal Waste Management Waste Plan.

Tin: The light weight, ductile, and malleable metallic substance or the chemical element commonly known as "Tin" (Atomic No. 50).

Toter cart: Any sturdy plastic container having a design, color, and minimum capacity as designated by the Township and used for the holding of solid waste or recyclable materials.

Township Collection Service: A service for the collection of solid waste, recyclable materials, and leaf waste in accordance with this Ordinance.

Township Collector or Contractor: The person designated by the 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 the Township, but shall not be construed as meaning that such person is an agent, employee, official, or representative of the Township.

Townhouse: A single-family dwelling attached to another dwelling and separated by a common wall. The term shall include duplex, fourplex, and similar dwellings.

Townhouse Complex: Any group of four (4) or more townhouse units under common ownership, management, or control whether by one or more individuals or a homeowners association.

Township: The Township of South Middleton.

Truck: A vehicle used for the collection of solid waste and/or recyclables 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 so as to prevent loss of material by wind.

Article II

Establishment of a Solid Waste Disposal and Recycling Program; Preparation and Storage of Solid Waste, Recyclables, and Leaf Waste

Section 201. Recyclable Materials

- A. Residential Uses: On or after March 1, 2010, it shall be mandatory for all persons who are owners, lessees, and occupants of dwelling units or buildings

within the Township to separate and store recyclable materials and solid waste, and to provide for the proper disposal and/or recycling of said materials in accordance with the methods provided by this Ordinance as follows:

1. To be recycled:
 - a. Clear glass;
 - b. Colored glass (green, brown, and amber);
 - c. Aluminum cans;
 - d. Bimetallic, tin, and steel cans;
 - e. Plastics Nos. 1 through 7, narrow-necked containers only;
 - f. Newspapers;
 - g. Glossy paper;
 - h. Corrugated cardboard;
 - i. Junk mail;
 - j. Telephone books; and
 - k. Paperboard, such as cereal or pasta boxes.
 2. To be disposed of by the Township Contractor:
 - a. Solid waste.
 3. To be recycled by the Township or designated Township Collector:
 - a. Leaf waste.
- B. Commercial, Municipal, or Institutional Establishments and Community Activities: On or after March 1, 2010, it shall be mandatory for all persons who are owners, lessees, or occupants of commercial, municipal, or institutional establishments, and for community activities within the Township, to separate and store recyclable materials and solid waste, and to provide for the proper disposal and/or recycling of said materials in accordance with the methods provided for in this Ordinance and as follows:
1. To be recycled:
 - a. High-grade office paper;
 - b. Aluminum cans;
 - c. Corrugated cardboard;
 - d. Newspaper; and
 - e. Glossy paper.
 2. To be recycled by the Township Contractor:
 - a. Solid waste.
 3. To be disposed of by the Township or Township Collector:
 - a. Leaf waste.
- C. Modification of Recyclable Materials Collected: The Township shall have the right to designate by resolution additional recyclable materials and to change recyclable materials to be collected depending on feasibility and marketability of recyclable materials and requirements of Federal or State law, rule, or regulation.

Section 202. Preparation, Storage, and Collection of Solid Waste and Recyclables

- A. Preparation of Solid Waste, Recyclables, and Ashes:

1. All solid waste shall be drained of liquids before being deposited for collection and shall be separated and stored apart from recyclable materials.
2. Glass and plastic containers shall have caps and lids removed.
3. Glass, cans, and plastics shall be rinsed free of contaminants.
4. Ashes shall be stored in a non-combustible container until cool.
5. Magazines and newspapers, including glossy and/or colored circulars/advertisements, may be placed in paper bags (plastic bags are prohibited) for recyclable collection.
6. All materials shall be otherwise prepared for collection in accordance with such regulations as may be established by the Township from time-to-time.

B. Containers

1. Containers to be collected by the Township Hauler:
 - a. All solid waste, to be regularly collected by the Township Hauler, shall be placed in 30 – 33 gallon plastic bags purchased by individual residents for such use, or the solid waste may be placed in a 90 – 99 gallon toter, as provided by Hauler, or other receptacle as stipulated in the Contract for Township Collection Services, without the use of bags.
 - b. Recyclables to be regularly collected by the Township Hauler shall be placed in a at minimum 35 gallon recycling container, or other receptacle as stipulated in the Contract for Township Collection Services, which is clearly distinguishable from the bags used for the collection of solid waste. The initial containers for residential customers shall be provided by the Township Hauler at no cost. Damaged containers shall be replaced at no cost to the customers.
 - c. Cooled ashes shall be placed in a bag for collection, provided the bag weighs less than 40 pounds and disposed of by either placing the bag in the toter cart or by placing a sticker on the bag.
 - d. Bulky waste shall be collected on a weekly basis on the same day as solid waste and recyclables. The collection of such bulky waste shall be subject to the restrictions and requirements of the Hauler.
 - e. Corrugated cardboard shall be cut into sections three (3) by three (3) feet and placed in the recycling container for collection.
 - f. All solid waste placed for collection shall be enclosed entirely within a 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 a 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.
2. 90 – 99 gallon solid waste toter carts, or other receptacle as stipulated in the Contract for Township Collection Services, shall be delivered by the

Hauler to those residents selecting the "Flat Rate System." Such toter carts shall remain the property of the Hauler.

3. No manner of containing solid waste or recyclables for collection shall be unnecessarily offensive to the senses.
 4. 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.
- C. Storing of Solid Waste, Recyclables, and Leaf Waste:
1. No person shall store or place any solid waste or recyclable in any street, alley, or public place or upon any private property, whether owned by such person or not, within the Township except in proper containers for collection or under the express approval of the Township. No person shall throw or deposit any solid waste or recyclables along roadsides, in any stream or other body of water, or in any authorized location or fashion prohibited by Federal, State, or local law. Leaves fallen from trees shall not be placed or allowed to remain upon or collected in piles upon any street or sidewalk, but will be collected by the Township or Township Collector, on dates scheduled therefore, if prepared and placed by method as directed by the Township.

Article III Collection Practices and Disposal

Section 301. Collection and Disposal of Solid Waste

- A. All owners of property within the Township shall provide for the regular preparation, collection, and removal of all municipal solid waste and recyclables generated at such properties in one of the approved manners set forth herein.
- B. On or after March 1, 2010, solid waste and recyclables from all residential buildings within the Township shall be collected by the authorized Township Hauler. Recyclable materials shall be collected by the Hauler on at least a weekly basis, on the same day as the collection of solid waste. Solid waste shall be collected by the Hauler from residential buildings as often as necessary, and not less often than weekly. Solid waste shall be collected either on a per bag system (persons or households pay for each bag of solid waste collected, each bag containing a tag, or other distinguishing marker to be purchased from the Hauler) or on a flat rate system (persons or households shall pay a fixed price on a quarterly basis and shall place all solid waste in the toter cart distributed by the hauler).
- C. All residential buildings shall participate in the solid waste and recycling program initiated by the Township with the Hauler. All residential buildings shall participate by selecting and continuing in one of two alternative systems for

collection: flat rate system or the per bag system. Failure to participate, or termination of service for non-payment to the Hauler, shall be a violation of this Ordinance and punishable as hereinafter provided.

- D. Those persons, households, and/or residential buildings selecting the flat rate service shall be billed a fixed charge by the Hauler and payable directly to the Hauler. Billing by the Hauler may be in advance of service. Participants in the flat rate system shall receive 90-99 gallon toter cart, or other receptacle as stipulated in the Contract for Township Collection Services, to be distributed by, and remain the property of the Hauler. Solid waste generated in excess of the capacity of the provided toter shall be placed in trash bags identified with tags or other distinguishing marker sold by the Hauler. Any such bags in excess of the capacity of the provided 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.
- E. Those persons, households, and/or residential buildings selecting the per bag collection service shall purchase tags, or other distinguishing marker, directly from the Hauler. Participants in the per bag system shall be required to purchase a minimum of 12 tags per year.

Section 302. Collection Practices for Residential Buildings

On or after March 1, 2010, solid waste and recyclables from all residential buildings within the Township shall be collected by the Township Hauler. Solid waste shall be collected by the Township Hauler from residential buildings as often as necessary, but not less often than weekly. Recyclable materials shall be collected on a weekly basis, on the same day as the solid waste.

Section 303. Collection Practices for Apartment Buildings, Townhouse Complexes, Condominium Complexes, Mobile Home Parks and Similar Complexes.

- A. On or after March 1, 2010, 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 for solid waste and recyclables at each property by contracting with the Township Hauler for collection of said items. The contract shall provide for a practical system of separation, storage, and collection of residents' solid waste and recyclables. The collection system must provide containers that are suitable for collecting and sorting materials, be easily accessible, and include written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords, and agents of owners or landlords shall not be liable for the noncompliance of occupants of their buildings.

- B. Recyclables shall be collected for apartment buildings as often as necessary, and not less than once a month. Solid waste shall be collected for apartment buildings as often as necessary, and not less than weekly.
- C. 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 hereinafter provided.
- D. While it is recognized that individual contract/homeowners agreements exist that may preclude participation by March 1, 2010, mandatory participation will become necessary at the expiration of said agreements/contracts.

Section 304. Collection Practiced for Commercial, Municipal, and Institutional Establishments

- A. On or after March 1, 2010, commercial, institutional, and municipal establishments shall provide for the collection of solid waste and recyclables by contracting with a Township Hauler. Any failure by said establishments to do so shall constitute a violation of this Ordinance subject to enforcement and penalty as hereinafter provided.
- B. Recyclables shall be collected from commercial, institutional, and municipal establishments as often as necessary, and specifically at least once a month. Solid waste shall be collected from commercial, municipal, and institutional establishments as often as necessary, and not less than weekly.

Section 305. Points of Collection

- A. Points of collection of solid waste and recyclables are a matter for agreement between the private parties involved; provided however, that such collection points shall be subject to the power of regulation of the Township, that no cartway of a road, street, or alley shall be employed as a point for the placing of solid waste or recycling containers, and that such points shall not constitute a nuisance, or a threat to the public health, safety, or wellness, or cause unnecessary offense to the senses.
- B. No solid waste or recyclable material shall be placed for collection earlier than 6:00 p.m. the day preceding a scheduled collection day. Haulers shall not collect residential municipal waste from properties within the Township limits on Sunday.
- C. Recyclable materials and solid waste that has been scattered or spilled from recycling containers or bags, other than through the negligence of the Collector, shall be replaced promptly in the solid waste or recycling container or bag, as the case may be, by the property owner, lessee, and/or resident.

Section 306. Hazardous Waste Disposal

Hazardous waste shall not be placed in containers or bags for regular collections but 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.

Section 307. Covered Electronic Device Disposal

Covered devices shall not be placed for regular collections but 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.

Section 308. Collection by Unauthorized Persons

It shall be unlawful for any person not otherwise authorized by the Township to collect or remove solid waste or recyclables 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.

Section 309. Contract Required to Collect, Haul, or Dispose of Solid Waste and/or Recyclables

- A. Collection, transportation, and disposal of solid waste and recyclables:
- 1) Any person intending to collect, transport, and dispose of solid waste and recyclables generated in the Township is required to obtain a license from the Township. The license shall be issued by the Township upon such terms, requirements, and cost as may be established by the Board of Supervisors from time-to-time.
 - 2) The collection, transportation, and disposal of solid waste and recyclables generated by sources other than commercial, municipal, and institutional establishments, unless otherwise specified in this Ordinance, shall be on an exclusive basis awarded to the Hauler pursuant to a contract between the Township and the Hauler after the submission of bids.
 - 3) No such contract shall be awarded to any person unless he or she also provides assurance, in writing, that any failure during the term of the contract to comply with the EPA's and DEP's rules and regulations, all Township rules and regulations, the rules and regulations of the Cumberland County Recycling and Solid Waste Authority, or this Section, as each is constituted during the course of such term, will be reported to the Township immediately, and any such failure or failures to report shall constitute grounds for revocation of the contract by the Township, as shall any other just cause.

- 4) Nothing in this Section shall preclude the awarding of a contract on the grounds that the prospective Contractor will employ a nonwatertight vehicle in the collection or hauling of bulky waste where such waste has, by its nature, no capacity for escape from the vehicle not being watertight; nor shall a Township Contractor who collects or hauls such bulky waste in a nonwatertight vehicle be subject therefore to any forfeiture or penalty under this Section.
 - 5) It shall be unlawful for any person, other than a Township Contractor, to collect, haul, and/or dispose of solid waste, bulky waste, or recyclables in the Township, or to perform or engage in solid waste and/or recycling collection services, unless a contract to collect, haul, and/or dispose of such solid waste, bulky waste, and recyclables shall have been first been awarded. Any collection, hauling, and/or disposal of solid waste and/or recyclables in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.
 - 6) Nothing herein shall limit the right of the Township to implement public collection of solid waste whether by entering into contracts or by engaging in any collection practice permitted by law.
- B. All Township Haulers shall provide proof to the Township that each vehicle owned and operated by the Hauler is registered and permitted in accordance with the regulations of the Cumberland County Recycling and Solid Waste Authority.
- C. To the extent permitted by law, the Township shall:
- 1) Use reasonable efforts to inform residents of the benefits which may be obtained from recycling, and the types of materials which are recyclable.
 - 2) Use reasonable efforts to enforce the rules and regulations relating to containers for recyclables and proper preparation of recyclables by residents for collection by the Township Hauler.
 - 3) Use reasonable efforts to obtain the cooperation of the private solid waste collection hauler(s) with respect to mailing or delivering notices to residents, placing recycling stickers or signs on collection vehicles, or in other ways.
- D. Subject to the exception in the case of a vehicle carrying bulky waste having no capacity to escape in any form by reason that such vehicle's not being watertight, no vehicle employed by the Township, or any person in the collection or hauling of solid waste under this Chapter, shall be other than a watertight one. All vehicles employed in the collection or hauling of solid waste under this Section must be provided with a tight cover so as to prevent offensive odors from escaping there from and solid waste from being blown about, dropped, or spilled.
- E. The Township Contractor shall report any violation of this Ordinance observed by it to the Township immediately.
- F. The Township Contractor shall, on a quarterly basis, on the 15th day of the month following the end of the quarter, provide a recycling report to the Township which shall be submitted in the form requested by the Township, and shall include complete information with respect to the amounts of each recyclable material collected during the preceding quarter.

Section 310. Unlawful Disposition of Recyclables

It shall be unlawful for any person to dispose of any recyclable material or item as defined herein by comingling said recyclables with other solid waste not required to be recycled or to dispose of such items in other places that will not ensure that said items are recycled. Such action shall be a violation of this Ordinance subject to penalty and enforcement as hereinafter provided.

Section 311. Unlawful Disposition of Solid Waste

It shall be unlawful for any person to deposit for collection any solid waste, including bulky items, not generated from the address from which collection is made or to bring any solid waste into the Township or from one address to another in the Township for the purpose of taking advantage of the collection service or to avoid the cost of collection. Such action shall be a violation of this Ordinance subject to penalty and enforcement as hereinafter provided.

Section 312. Alternative Means of Disposal; Donation or Sale of Recyclables

Notwithstanding any provision herein to the contrary, any Township resident or owner of property in the Township may donate or sell any recyclable item or material to any other person, or properly permitted and licensed processing center, whether or not for a profit. The donated or sold recyclable items or material however shall not be collected by the recipient or purchaser thereof from the location where it is placed for collection without prior written permission from the Township.

Section 313. Exclusions

- A. Normal Farming Operations: Nothing contained herein shall prohibit a farmer, or anyone engaged in what is commonly referred to as farming practices, including composting or spreading of manure or other produced agricultural wastes not otherwise prohibited or regulated for land applications, from continuing such operations.
- B. Hazardous or Residual Wastes and Covered Devices: The provisions of this Ordinance do not apply to anything but the storage, collection, transportation, and disposal of solid waste, recyclables, and bulky waste and not apply therefore to hazardous or residual waste as defined by Act 101, as amended or covered devices as defined by Act 120. All hazardous, residual waste, or covered devices shall be disposed of in compliance with all applicable State and Federal laws and regulations.

Article IV
Penalties for Violation and Enforcement

Section 401. Penalties

- A. 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 dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), plus cost of prosecution, including reasonable attorney's fees, and in default of payment of such fine, costs, and/or attorney's fees, to imprisonment for a term not exceeding thirty (30) days. Every violator of any of the provisions 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.
- B. It shall be in violation of this Ordinance for any person to interfere with a Township Hauler in its performance of collecting, transporting, and/or disposing of recyclable materials and/or solid waste.
- C. 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 and punishable as herein provided.
- D. The presence of any articles containing a person's name among solid waste or recyclables shall create a rebuttable presumption that said 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.
- E. Nothing herein is intended to preclude the Township's exercise of any additional remedies in law or equity, for noncompliance with this Ordinance.

Section 402. Enforcement

The Township Manager or his designee, or any other agent designated by the Board of Supervisors, shall have the authority to enforce the provisions of this Ordinance.

Section 403. Establishment of Recycling Awareness Program

The Township shall establish a comprehensive and sustained public information and education program concerning the recycling program, features, and requirements in accordance with Act 101.

Section 404. Prohibition against Burning

- A. No burning of recyclable materials shall be done or permitted by any owner, occupier, or user of property.
- B. Burning of non-recyclable solid waste shall be done and permitted only as authorized by law or regulation of the Township and the Commonwealth of Pennsylvania or its regulatory agencies.

Section 405. Severability

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

Section 406. Repealer

All Township ordinances, parts of ordinances, policies, and regulations inconsistent with the provisions of this Ordinance, including but not limited to Ordinance No. 2009-10, are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby.


Section 407. Effective Date

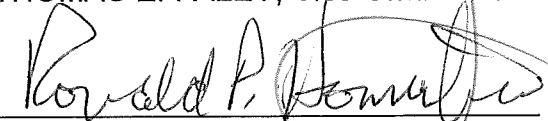
This Ordinance shall be effective five days following enactment.


ENACTED AND ORDAINED this 14 day of Feb, 2019.


SOUTH MIDDLETON TOWNSHIP
BOARD OF SUPERVISORS


BRYAN A. GEMBUSIA, Chairman

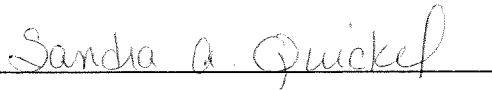

THOMAS E. FALEY, Vice Chairman


RONALD P. HAMILTON, Member


R. DUFF MANWEILER, Member


WALTER G. REIGHARD, Member

ATTEST


SANDRA A. QUICKEL, Secretary