

Recycling Ordinance Updates

New Garden Township
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Landenberg, PA 19350



SCS ENGINEERS

02217011.01 – Task 35 | April 27, 2021

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ACKNOWLEDGEMENT

This study and report was completed under the Pennsylvania Department of Environmental Protection's (DEP) Recycling Technical Assistance Program. SCS Engineers acknowledges the support of DEP to complete this study.

1 PROJECT DESCRIPTION

New Garden Township (Township) is a Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) mandated recycling community. The Township has established a mandatory recycling ordinance that requires all residents and owners/occupants of commercial, institutional, and industrial establishments to recycle. The U.S. Census Bureau estimates the Township's population to be about 12,100 people. The Township's service area includes about 3,900 households.

Technical assistance was requested to review the Township's existing recycling ordinance. The proposed revised recycling ordinance focuses on compliance with Act 101 while giving residents and business owners the flexibility to select recycling services that best meet their individual needs. The new recycling ordinance is divided into two parts: 1) Recycling Requirements (i.e. requirements and responsibilities for residents, business owners, etc.) and 2) Collection Requirements (i.e. requirements and responsibilities for haulers and other entities that collect recyclable materials in the Township). The ordinance includes requirements for single-family and multi-family residential properties; commercial, institutional, and industrial establishments; and community activities.

2 SUMMARY OF WORK

This section summarizes the tasks and outcomes of this project.

Task 1 – Obtain and Review Current Recycling Ordinance

SCS obtained the Township's current recycling ordinance, including all amendments, and reviewed its content and provisions. SCS reviewed the ordinance with the following considerations in mind:

- Compliance with Act 101 recycling requirements;
- Specific focus areas/topics of interest to the Township;
- Useful provisions included in other local government recycling ordinances.

Task 2 – Recommend Ordinance Improvements

SCS provided guidance to the Township on the content to include in a revised recycling ordinance. SCS addressed requirements for the residential (single-family and multi-family), commercial, and special event generating sectors as well as specific materials required for recycling by each sector.

Task 3 – Develop Revised Recycling Ordinance

Based on Task 2 and input received from the Township, SCS developed a revised recycling ordinance that complies with Act 101 requirements and gives residents and businesses the flexibility to arrange for recycling services that best meet their needs. A draft revised recycling ordinance is included in **Appendix B**.

Task 4 – Final Report

SCS developed this report to provide a summary of the suggested ordinance revisions along with a draft of a revised recycling ordinance to be reviewed by the Township's solicitor prior to approval by the Township's Board of Supervisors.

3 CURRENT PROGRAM

The Township requires that all residents and businesses in the Township recycle. The current mandatory recycling ordinance requires residents to recycle newspapers, glass containers, aluminum cans, and leaf waste. Commercial, municipal, and institutional establishments are required to recycle high-grade office paper, aluminum cans, clear and colored glass, plastic beverage containers, corrugated paper, and leaf waste.

The Township does not support an organized recycling collection program. Instead each household and business contracts directly with the hauler of their choice for solid waste, recycling, and leaf waste collection services. The existing solid waste and recycling ordinance implies that haulers operating in the Township provide separate collection services for solid waste, recyclable materials, and leaf waste, although the ordinance does not explicitly require it. Recycling and yard waste collection services occur curbside or on-property only. The Township does not operate a drop-off facility for residents or business owners to use.

The Township’s website provides information on recycling requirements for residents and owners/occupants of commercial properties, and includes a direct link to the existing recycling ordinance. It specifies what materials must be recycled and how those materials should be prepared for collection, based on guidelines provided by the Chester County Solid Waste Authority. **Appendix A** includes a summary of Act 101 municipal recycling requirements.

4 FINDINGS

This section summarizes the proposed modifications and changes to the existing recycling ordinance. SCS proposes that the revised ordinance include at least two sections: 1) Requirements and responsibilities of residents and owners/occupants of commercial properties, and 2) Requirements and responsibilities of haulers operating in the Township. The complete proposed draft recycling ordinance is included in **Appendix B**.

REQUIREMENTS FOR RESIDENTS AND BUSINESS OWNERS

Table 1 summarizes the proposed recycling requirements for residents and business owners.

Table 1. Recycling Requirements for Residents and Business Owners

Reference (revised ordinance)	Update/Requirement
Title	New Garden Township Recycling Ordinance
Program Established	Establishes a mandatory recycling program in the Township; it is recommended this section is moved to the beginning of the ordinance

Reference (revised ordinance)	Update/Requirement
Definitions	<p>Suggest revising and expanding the list of definitions in the ordinance to be more descriptive and comprehensive, examples include:</p> <ul style="list-style-type: none"> - Mixed paper – Grouping multiple paper types together that may be recycled in the Township rather than listing them all separately; - Plastic – Add a definition for plastic as a recyclable material; - Multi-family establishment – Include apartments, condos, etc. to define recycling services more specifically; - Refuse – Narrow the definition to municipal waste.
Self-haul allowance	<p>Gives residents the flexibility to personally transport recyclable materials and leaf waste to appropriate facilities for recycling and composting; requires approval and annual reporting to the Township.</p>
Single-family residential establishments	<p>Requires the following recycling activities:</p> <ul style="list-style-type: none"> • Separate recyclable materials from municipal waste and placement in a separate recycling container; • Arrange with an authorized collector for separate collection of materials no less than two times per month; • Understand how recyclable materials must be prepared for collection, including keeping materials clean and dry; • Prepare recyclable materials in a way that prevents litter; • Place recycling containers curbside in a location that does not block roads or sidewalks no earlier than 6:00 p.m. the day before collection.
Multi-family residential establishments	<p>Requires the following recycling activities by owners, landlords or agents of multi-family properties :</p> <ul style="list-style-type: none"> • Set up a recycling system at each building that includes: <ul style="list-style-type: none"> - Labeled containers for placement of recyclable materials separate from municipal waste; - Written instructions to tenants on the availability of the program and proper preparation of materials; • Contract with an authorized collector for the separate collection, transportation, and recycling of materials; • Arrange collection of recyclable materials no less than one time per week; • Annually report to the Township the name of the authorized collector, building/complex address, and quantity of each material collected from the property.

Reference (revised ordinance)	Update/Requirement
Commercial, institutional, and municipal establishments	<p>Requires the following recycling activities by owners, landlords or agents of commercial, institutional, and municipal establishments:</p> <ul style="list-style-type: none"> • Set up a recycling system at each building that includes: <ul style="list-style-type: none"> - Labeled containers for placement of recyclable materials separate from municipal waste; - Written instructions to tenants or occupants on the availability of the program and proper preparation of materials; • Contract with an authorized collector for the separate collection, transportation, and recycling of recyclable materials; • Arrange collection of materials no less than one time per week; • Annually report to the Township the name of the authorized collector, building/complex name and address, and quantity of each material collected from the property on a form provided by the Township.
Community activities	<p>Requires the following recycling activities by organizers or sponsors of community activities:</p> <ul style="list-style-type: none"> • Set up a recycling system at a community activity that includes: <ul style="list-style-type: none"> - Labeled containers for designated source separated recyclable materials; - Instructions on recycling containers that indicate what materials must be placed in the containers; • Contract with an authorized collector for the separate collection, transportation, and recycling of materials; • Annually report to the Township the community activity, name of the authorized collector, and quantity of each material collected at the community activity on a form provided by the Township.
Household hazardous waste, electronic waste, and lead-acid batteries	<ul style="list-style-type: none"> • Prohibits the mixing of hazardous waste (as defined in Act 101), lead-acid batteries, covered devices, and Freon containing appliances with municipal waste, recyclable materials, and/or leaf waste; • Designates these materials must be managed and disposed of in accordance with guidelines provided by the Chester County Solid Waste Authority, DEP, or other agency as applicable.

Reference (revised ordinance)	Update/Requirement
Prohibitions	<p>Prohibited activities include:</p> <ul style="list-style-type: none"> - Collecting of materials by unauthorized collectors (see collector registration and approval requirements, Table 2); - Burning of recyclable materials or leaf waste; - Dumping recyclable materials, municipal waste, or leaf waste on any public or private grounds in the Township other than a designated facility; - Overfilling containers that causes material to be displaced or littered; - Storing or stockpiling materials on a property other than at a designated facility or for collection by an authorized collector; - Creating a public nuisance by not complying with the provisions of ordinance.
Ownership of recyclable materials	<p>This recycling ordinance does not impair the ownership of recyclable materials and leaf waste to the person who generated the materials until it is placed curbside for collection by an authorized collector.</p>
Rules and regulations	<p>The Board of Supervisors for New Garden Township may adopt rules and regulations to carry out the intent and purpose of this ordinance.</p>
Enforcement and penalties	<p>The following enforcement and penalty provisions are provided:</p> <ul style="list-style-type: none"> • The penalty for violation and conviction of a violation of this ordinance shall be a fine of not more than \$1,000 and not less than \$50 and imprisonment for a term not to exceed 90 days; • Township may institute a suit in equity where unlawful conduct or a public nuisance exists to restrain the violation(s); • Penalties and remedies in this ordinance shall be deemed concurrent and shall not prevent the Township from exercising any other remedy in this ordinance or law.
Construal	<p>Terms and provisions of the ordinance are to be liberally construed and construed in pari materia with the Pennsylvania Code of Regulations, Storage, Collection, and Transportation of Municipal Waste and Act 101, and rules and regulations adopted thereunder.</p>

REQUIREMENTS FOR COLLECTORS

Table 2 summarizes the proposed process for the Township to authorize collectors to operate in New Garden Township along with the requirements for collection operations. The complete proposed recycling ordinance is included in **Appendix B**.

Table 2. Recycling Requirements for Authorized Collectors

Reference (revised ordinance)	Update/Requirement
Title	New Garden Township Waste Collection Ordinance
Definitions	Includes revised and updated definitions, including an updated definition for authorized collector.
Collector registration required	Specifies that an entity wishing to collect municipal waste, recyclable materials, or leaf waste must register with the Township Manager in order to lawfully collect materials.
Collector registration and approval requirements	<p>The requirements for an entity to become an authorized collector include providing the following information to the Township:</p> <ul style="list-style-type: none"> • Business name and contact information, including 24-hour emergency contact information; • Make, model, and year of each collection vehicle used to collect materials; • Workmen’s compensation and liability insurance certificates; • Current rate schedules, intended areas of operation, and operating schedule; • Names of the facilities where municipal waste, recyclable materials, and leaf waste are transported; • Quarterly reports on the quantity of each material collected from each generating sector in the Township; • Additional information as required by the Township. <p>Upon receipt of the above information and review to confirm it meets the requirements of this ordinance, the Township will issue an authorization letter to establish an entity as an authorized collector; authorizations must be renewed each January.</p>

Reference (revised ordinance)	Update/Requirement
Conditions of registration approval	<p>The following conditions are proposed as conditions of approval of an authorized collector registration:</p> <ul style="list-style-type: none"> • Provide separate curbside or onsite collection services for municipal waste, recyclable materials, and leaf waste; • Collection vehicles must be closed-body and maintained in good and proper mechanical condition and in compliance with state safety and sanitary requirements; vehicles must be designed to prevent leakage of liquids and fluids; • Establish material preparation procedures and communicate those procedures to their customers; • Notify customers if noncompliance with any provision of this ordinance is observed on a form provided by the Township and provide the Township with customer names and addresses where noncompliance is observed; • Maintain a copy of Township collector authorization in each vehicle being operated in the Township.
Refusal to grant registration approval; suspension; revocation	<p>The Township may refuse authorization or suspend existing authorizations for submittal of incomplete or false information or noncompliance with authorization conditions or any other applicable federal, state, or local ordinance or policy.</p> <p>Refusal to grant registration or revocation of an existing registration will be made in writing by the New Garden Township Manager and include the reason(s) for the suspension or revocation.</p>

Reference (revised ordinance)	Update/Requirement
Prohibited acts	<p>The following activities are unlawful and grounds for suspension or revocation of an authorized collector's registration:</p> <ul style="list-style-type: none"> - Collecting municipal waste from persons failing to source separate recyclable material; - Comingling or mixing source separated recyclable materials or leaf waste with municipal waste; - Failing to properly dispose of municipal waste, recyclable materials, or leaf waste as provided for in this ordinance or any other applicable federal, state, or local requirement; - Collecting materials from persons prior to 6:00 a.m. or after 8:00 p.m. - Loading or transporting any material in a way that results in materials being littered on public roads or private property; - Placing collection containers in any location or manner other than the designated collection location; - Creating a public nuisance.
Rules for collection	<p>Collection of municipal waste, recyclable materials, or leaf waste by authorized collectors must be made in compliance with this ordinance and any other applicable federal, state, or local requirements or resolutions.</p>
Contracting collection services	<p>Allows the Township to enter into one or more agreements with an authorized collector(s) for the collection of municipal waste, recyclable materials, or leaf waste via a public bid process.</p>

Reference (revised ordinance)	Update/Requirement
Violations and penalties	<p>The following enforcement and penalty provisions are provided as part of this ordinance:</p> <ul style="list-style-type: none"> • The penalty for violation and conviction of this ordinance shall be a fine of not more than \$1,000 and not less than \$250; • Township may institute a suit in equity where unlawful conduct or a public nuisance exists to restrain the violation(s). <p>Penalties and remedies in this ordinance shall be deemed concurrent and shall not prevent the Township from exercising any other remedy in this ordinance or law. Authorized collectors who violate any provision of this ordinance may be reported to the Pennsylvania Department of Environmental Protection and may be subject to revocation of the state's authorization to transport municipal waste as described in the amended Waste Transportation Safety Program.</p>
Construal	<p>Terms and provisions of the ordinance are to be liberally construed and construed to effectuate the goals and purposes thereof. This article shall be construed in pari materia with the Pennsylvania Code of Regulations, Storage, Collection, and Transportation of Municipal Waste and Act 101, and rules and regulations adopted thereunder.</p>

5 CONCLUSION

New Garden Township should revise their existing recycling and collection ordinance in a way that conforms to Act 101's municipal recycling requirements and best serves the Township's residents and owners/occupants of commercial, institutional, and municipal establishments. Township officials and staff, in conjunction with their Solicitor or legal counsel, should decide what modifications should be made. Even though various haulers provide waste and recyclable material collection services to residents and businesses, the Township has an important role to establish a recycling program that complies with Act 101. Implementing a revised recycling ordinance is an important step for complying with Act 101 and facilitating increased recycling by all generating sectors in the Township.

Appendix A
Municipal Recycling Requirements of Act 101

Summary of Act 101 Mandatory Municipal Recycling Requirements

Overview

Chapter 15, Section 1501 of the Pennsylvania Municipal Waste Planning Recycling and Waste Reduction Act (Act 101), outlines the requirements for large municipalities to recycle. Municipalities, other than counties, with a population of 10,000 or more people or with a population of more than 5,000 but less than 10,000 people, and a population density of more than 300 people per square mile, are mandated to recycle.

Recycling Ordinance

An Act 101 mandated local government must adopt an ordinance that requires recycling. The ordinance shall require the following:

- 1) Recycling at single-family homes and apartments; commercial, municipal, and institutional establishments; and at community activities.
- 2) A scheduled day, at least once per month, when separated recyclable materials are to be placed at the curb or similar location for collection.
- 3) A collection system, including trucks and related equipment, to pick-up separated recyclable materials from the curb or similar location at least once per month from homes and businesses in the municipality. The municipality shall explain how the system will operate, the dates of collection, the responsibilities of persons within the municipality and incentives and penalties.
- 4) Provisions to ensure compliance with the ordinance, including incentives and penalties.
- 5) Provisions for the recycling of collected materials.

Residential Recycling

Residents must separate for recycling at least three materials deemed appropriate by the municipality from municipal waste generated at their homes, apartments, or other residential establishments. Separated materials must be stored at the property until collection. The three materials must be selected from the following:

- Clear glass;
- Colored glass;
- Aluminum;
- Steel and bimetallic cans;
- High-grade office paper;
- Newsprint;
- Corrugated paper;
- Plastics.

Leaf waste must also be separated from municipal waste generated at residential properties and stored for collection, unless residents have already provided for the composting of the materials (i.e. backyard composting).

Owners or landlords of multi-family rental properties with four or more units must establish a recycling collection system at each property. The collection system must include suitable containers for collecting and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Owners or landlords that comply with these requirements shall not be liable for noncompliance by occupants of their buildings.

Commercial, Municipal, and Institutional Recycling

Occupants of commercial, municipal, and institutional establishments are required separate and store for recycling of the following materials at a minimum:

- High-grade office paper
- Aluminum;
- Corrugated paper;
- Leaf waste.

Occupants of commercial, municipal, and institutional establishments may be exempt from the requirements of this law if those persons have otherwise provided for the recycling of materials they are required to recycle. To be eligible for an exemption, the commercial, municipal, or institutional generator must provide written documentation to the municipality annually.

Community Activity Recycling

Organizers of community events must provide for the separation, storage, and collection of high-grade office paper, aluminum, corrugated paper, and leaf waste at the events. Community activities required to recycle include events sponsored in whole or in part by a municipality or held within a municipality and sponsored privately. Events include fairs, bazaars, picnics, or sporting events that will be attended by more than 200 or more people each day of the event.

Leaf Waste Diversion

Municipalities mandated to recycle under Act 101 must require residential and commercial establishments to separate and store leave waste for collection. Leaf waste includes leaves, shrubbery, tree trimmings, and similar materials, excluding grass clippings. These materials must be collected at least monthly. In order to comply with Act 101, mandated municipalities must at a minimum:

- 1) Implement an ordinance that requires leaf waste to be separated from municipal waste for recycling at residential and commercial, municipal, and institutional establishments, AND
- 2) Establish a scheduled day, at least once per month, when leaf waste is collected curbside or similar location, OR
- 3) Establish a scheduled day, no less than two times per year and preferably in the spring and fall, when leaf waste is collected curbside or similar location from residential and commercial establishments, AND facilitate a drop-off location or other collection alternative approved by the Pennsylvania Department of Environmental Protection that allows persons to drop-off leave waste for composting at least once per month. A leaf waste drop-off site can be in a neighboring municipality or at a private establishment provided there is an agreement in place to utilize the site, and residents and occupants of commercial establishments are informed of the drop-off location at least every six months.

Municipalities are encouraged to manage source separated Christmas trees as leaf waste for processing at DEP approved composting facilities.

Public Education and Outreach

Municipalities subject to the requirements of Act 101 must implement a comprehensive and sustained public education program. This program is to provide residents and owners/tenants/occupants of commercial, municipal, and institutional establishments with information on recycling program features and requirements. The educational program includes two features:

- **Initial Education** – At least 30-days prior to the start of a recycling program notify all persons occupying residential, commercial, municipal, and institutional establishments of the recycling requirements as contained in the ordinance.
- **Sustained Education** – Every six months the municipality must inform and remind all persons occupying residential, commercial, municipal, and institutional establishments of the recycling requirements.

Numerous forms of educating the public are acceptable and include:

- Newspaper advertisement circulating in the municipality;
- Public notice posted where such notices are customarily posted;
- Notices in other official notifications (i.e. utility bills);
- Website;
- Newsletter;

A combination of forms are acceptable and at least one form must be in print annually.

Implementation

Municipalities may implement their responsibilities for the collection, transportation, processing, and marketing of recyclable materials in one or a combination of the following ways:

- 1) Collect, transport, process, and market recyclable materials themselves;
- 2) Enter into a contract(s) with other entities for the collection, transportation, processing, or marketing of recyclable materials. If contracting for recycling services, the entity being contracted is responsible to the municipality for implementing of recycling activities.
- 3) Contract with a landfill or material recovery facility, in lieu of a curbside recycling program, that guarantees by contract that at least 25 percent of the waste received is recycled. The technology utilized in this program must have prior approval from DEP.
- 4) Utilize a recycling facility that demonstrates that the materials separated, collected, recovered, or created by the facility can be marketed as readily as materials collected through a curbside recycling program. In addition, the mechanical separation technology used by the facility has been demonstrated to be effective for the life of the facility.

Exceptions

The municipality is not required to collect, transport, process, or market recyclable materials or contract for these services if all of the following conditions are met:

- 1) The municipality is not collecting and transporting municipal waste from such establishment or activity.
- 2) The municipality has not contracted for the collection and transportation of municipal waste from such establishment or activity.
- 3) The municipality has adopted an ordinance as required, and the establishment or activity is in compliance with the provisions of the ordinance.

Act 140 Requirements for Section 904 Recycling Performance Grants

Overview

Act 101 was amended in 2006 by Act 140 to establishment requirements for the use of Section 904 Recycling Performance Grants.

Requirements:

Municipalities mandated to recycle under Act 101 and receive more than \$10,000 in funding from recycling performance grants must meet the following requirements:

- 1) Requires, through ordinance, that all residents have waste and recycling service.
- 2) Has an implemented residential recycling program and facilitates a commercial recycling program or participates in a similar county or multi-municipal program.
- 3) Has a residential and business recycling education program.
- 4) Has a program of enforcement that periodically monitors participation, receives complaints and issues warnings for required participants and provides fines, penalties, or both, in its recycling ordinance.
- 5) Has provisions, participates in a county or multi-municipal program or facilitates a private sector program for the recycling of special materials.
- 6) Sponsors a program, facilitates a program or supports an organization to address illegal dumping and/or littering problems.
- 7) Has a person or entity designated as recycling coordinator who is responsible for recycling data collection and reporting recycling program performance in the municipal or municipalities.

If these requirements are not satisfied by the municipality, then the grant funds awarded under this section must be expended by the municipality only to satisfy these requirements. If all these requirements are satisfied, then the grant funds awarded may be used for any expense as selected by the municipality.

Appendix B
Draft Revised Recycling and Collection Ordinance

**New Garden Township Recycling Ordinance
PADEP Recycling Technical Assistance**

NOTE: This draft ordinance does not constitute legal advice. This draft language is presented to convey a proposed structure for the Township's mandatory recycling program. It is for discussion and review by the Township Board of Supervisors, Solicitor, and others as deemed necessary.

**Chapter 168. Solid Waste
Article XX. Recycling Requirements**

Title.

This article shall be known and may be cited as the "New Garden Township Recycling Ordinance."

Program established.

There is hereby established a program for the mandatory source separation and collection of recyclable materials in New Garden Township, Chester County, Pennsylvania. No person shall collect, remove, treat, transport, or dispose of recyclable materials and leaf waste in New Garden Township except in accordance with this article. The use of an authorized collector will not relieve any person from compliance with this article.

Definitions.

As used in this article, the following terms shall have the following meanings:

Act 101

The statewide recycling requirement in Pennsylvania known as the Municipal Waste Planning Recycling and Waste Reduction Act of 1988.

Aluminum can

Refers to cans comprised of 100 percent aluminum.

Authorized Collector

Person registered and authorized by New Garden Township to collect, remove, transport, and dispose of municipal waste, recyclable materials, and/or leaf waste for owners or occupants of single-family residential establishments, multi-family residential establishments, commercial establishments, institutional establishments, municipal establishments, and community activities in New Garden Township.

Bi-Metal Containers

Empty food or beverage container made of steel with a thin plating of tin over the steel.

Corrugated Paper

A structural paper material with an inner core shaped in rigid parallel furrows and ridges.

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Commercial Establishment

A building or buildings used or designed for use for commercial purposes, including, but not limited to wholesale, industrial, manufacturing, transportation, financial or professional services stores, markets, office buildings, restaurants, shopping centers, theaters or other commercial activities.

Community Activities

Events sponsored in whole or in part by New Garden Township or conducted within New Garden Township 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 Facility

A facility for composting vegetative material, including leaves, garden residue and chipped shrubbery and tree trimmings.

Covered Device

As defined in Act 108, Covered Device Recycling Act, a covered computer device and covered television device marketed and intended for use by a consumer.

Dwelling Unit

A room or rooms within a building connected together, constituting a separate independent housekeeping establishment for a single family, for owner occupancy or for rental, lease or other occupancy on a monthly or longer basis.

Glass containers

Empty food and beverage containers, including jars and bottles, made of clear, blue, green, brown, or amber glass; excludes plate glass, window glass, automotive glass, porcelain, ceramic products, and glass ornaments.

High Grade Office Paper

Bond, copier, letterhead or mimeograph paper typically sold as "white ledger" paper; includes computer paper.

Institutional Establishment

An establishment engaged in service, including but not limited to hospitals, nursing homes, orphanages, schools, universities, churches and social or fraternal societies and organizations.

Leaf Waste

Leaves, garden residues, shrubbery and tree trimmings and similar materials, but not including grass clippings.

Magazine

A periodical publication containing a collection of articles, stories, photographs, illustrations,

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and other features usually bound with a paper cover and printed in one or more colors on glossy or chemically coated paper, excluding newsprint and all other paper or fiber materials.

Mixed Paper

Recyclable paper materials including paperboard/boxboard, junk mail, and other designated recyclable paper; excludes corrugated paper, magazines, high grade office paper, and newsprint.

Multi-Family Residential Establishment

A building or buildings under single or multiple ownership and designed as a residence for four or more families living independently of each other and doing their own separate cooking therein, including apartments townhomes, or condominiums.

Municipal Establishment

Of or pertaining to any office or other property under the control of any branch or arm of the Federal Government of the United State of America, the Commonwealth of Pennsylvania, or any political subdivision of the Commonwealth of Pennsylvania including, but not limited to, the Township of New Garden, any counties, cities, townships, and municipal authorities.

Municipal Waste

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or gaseous material, resulting from the operations of residential, municipal, commercial or institutional establishments and from community activities and sludge not meeting the definition of residential or hazardous waste in the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, as amended, 35 P.S. § 6018.101 et seq., from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials or leaf waste.

Newsprint

Paper 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.

Person

An individual, partnership, association, corporation, institution, cooperative enterprise, municipal authority, federal government or agency, state institution or agency or any other legal entity which is recognized by law as a subject of rights and duties. In any provision of this article 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 any other legal entity having officers and directors.

Plastic container

Empty and clean plastic containers that contained food, beverage, cleaning, laundry, and other household products. Includes only rigid containers marked with a recycling symbol and a single number (i.e. 1, 2, 5, or 7). Examples include soda and water bottles, milk and

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water jugs, laundry containers, produce and other food containers, and soap bottles; excludes expanded polystyrene containers and plastic containers larger than two-gallons such as buckets and laundry baskets.

Recyclable Materials

Those materials specified by New Garden Township for collection in accordance with this article and recycling regulations that may be promulgated from time to time for separation, collection, processing, and recovery as part of a recycling program. These materials include aluminum cans, bi-metal containers, corrugated paper, glass containers, leaf waste, magazines, mixed paper, newsprint, high grade office paper, and plastic containers.

Recycling

The separation, collection, processing, recovery and sale or reuse of recyclable materials, which could otherwise be disposed of or processed as municipal waste.

Recycling Container

A container designated by the property owner or resident for the storage of recyclable materials. A recycling container may be provided by the property owner, resident or tenant, or the authorized collector. A recycling container must be durable, watertight, and be at least 13-gallons in size and no more than 95-gallons with a label indicating the container is for recyclable materials.

Recycling Facility

A facility employing a process that separates or classifies recyclable materials 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 does not include transfer facilities, municipal waste landfills, composting facilities or resource recovery facilities.

Single-Family Residential Establishment

An occupied dwelling unit for human habitation, except multi-family residential establishment with four or more units. Home occupations incidental to the residential use within a dwelling unit are considered a “residential establishment.”

Source Separation

The separation of recyclable materials from municipal waste at the points of origin for the purpose of recycling.

Township

The governmental jurisdiction and legal entity of New Garden Township, Chester County, Pennsylvania.

Requirement for collection service.

Subject to the provisions of Section [XX] below, all persons in the Township must contract with an authorized collector for the separate curbside or similar location collection of recyclable materials and leaf waste.

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Self-haul allowance.

Persons may self-haul recyclable materials and leaf waste to a state-authorized recycling facility or composting facility in lieu of contracting for curbside collection of recyclable material and leaf waste collection services. Persons opting to self-haul materials must receive prior approval from the Township to self-haul, retain receipts and/or weigh tickets that document the quantity of recyclable materials and leaf waste disposed, and submit annual reports to the Township documenting their name, address, quantities of each material self-hauled, name and address of facility where materials were self-hauled, and other information as required by the Township. Reports must be submitted within 30 days of the end of each calendar year for the previous year.

Single-family residential establishment.

- 1) Except as otherwise provided herein, all persons owning or occupying single-family residential establishments shall separate recyclable materials designated in this article from municipal waste. Recyclable materials shall be placed in recycling containers and the recycling containers placed curbside or in another designated location for collection by an authorized collector.
- 2) Separate collection of recyclable materials shall be arranged with an authorized collector by the owner or occupants of each single-family residential establishment. Owners or occupants of each single-family residential establishment and the authorized collector shall establish a collection frequency that shall occur no less than two times per month.
- 3) The owner or occupant of the single-family residential establishment must obtain information from their authorized collector on how recyclable materials should be prepared for collection.
- 4) Requirements for collection.
 - a. All recyclable materials must be placed in a recycling container separate from municipal waste. Recycling containers may be provided by the authorized collector, property owner, or resident, as allowed by the authorized collector.
 - b. Recyclable materials must be prepared to prevent the materials from being blown about or littered on Township streets or on private property. This may include placement of recyclable materials in recycling containers with latching lids.
 - c. No persons shall place recyclable materials in containers used for the collection of municipal waste and no municipal waste shall be placed in recycling containers.

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- d. Containers shall be placed curbside or in another location as designated by an authorized collector for collection. Under no circumstances shall containers be placed on the paved portion of a roadway or sidewalk or otherwise obstruct the flow or vision of motorists or pedestrians traveling on adjacent roads, streets, or sidewalks.
 - e. No container shall be placed at the curb or in the front yard on any lot before 6:00 P.M. on the night prior to the scheduled collection.
 - f. Recyclable materials must be clean and dry and prepared according to the requirements of the Township or authorized collector.
- 5) Nothing herein shall be deemed to impair the ownership of recyclable materials by the person who generated them unless and until such materials are placed at the curb or similar location for collection by the authorized collector.

Multi-family residential establishments.

- 1) Owners, landlords, or agents of owners or landlords of a multi-family residential establishment must establish a system for source separation, collection, transportation, and recycling of the recyclable materials designated in this article that are generated at multi-family residential establishments. The system must include an appropriate number of labeled recycling containers at easily accessible locations to accommodate the amount of recyclable materials generated at each multi-family residential establishment. The system must also include written instructions to the residents of multi-family residential establishments to inform them of the requirement to recycle and the use and availability of the collection program. The Township reserves the right to require additional recycling containers if the Township deems there is insufficient recycling containers to serve residents.
- 2) Owners, landlords, or agents of owners or landlords of multi-family residential establishments must contract with an authorized collector for the separate collection of recyclable materials.
- 3) No person shall place recyclable materials in containers used for the collection of municipal waste and no municipal waste shall be placed in containers designated for the collection of recyclable materials.
- 4) Recyclable material collection frequency shall be set by the owner, landlord, or agent of an owner or landlord of a multi-family residential establishment and the authorized collector, but shall occur no less than once a week. More frequent collection of recyclable materials may be necessary to prevent recycling containers from being overfilled and cause materials to be blown about or littered on Township streets and private property.

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- 5) The owner, landlord, or agent of an owner or landlord of multi-family residential establishments must provide a written report to the Township that lists the authorized collector collecting recyclable materials, the name and address of the property that recyclable materials are collected, the quantity of each type of recyclable material collected, and the name and affiliation of the person submitting the report. Reports are to be completed on a form supplied by the Township and shall be submitted annually, 30 days after the close of each calendar year.
- 6) Owners, landlords, or agent of an owner or landlord who comply with the ordinance shall not be liable for the non-compliance of residents.

Commercial, institutional, and municipal establishments.

- 1) Owners, landlords, or agents of owners or landlords of a commercial, institutional, or municipal establishment must establish a system for source-separation, collection, transportation, and recycling of recyclable materials designated in this article that are generated at each building. The system must include an appropriate number of labeled recycling containers at easily accessible locations to accommodate the amount of recyclable materials generated at each building. It must also include written instructions to the tenants or occupants of commercial, institutional, and municipal establishments to inform them of the requirement to recycle and the use and availability of the collection program. The Township reserves the right to require additional recycling containers if the Township deems there is insufficient containers to serve occupants or tenants.
- 2) Owners, landlords, or agents of owners or landlords of a commercial, institutional, and municipal establishments must contract with an authorized collector for the separate collection of recyclable materials.
- 3) No persons shall place recyclable materials in containers used for the collection of municipal waste and no municipal waste shall be placed in containers designated for the collection of recyclable materials.
- 4) Recyclable material collection frequency shall be set by the owner, landlord, or agent of an owner or landlord of a commercial, institutional, or municipal establishment and the authorized collector, but shall occur no less than once a week. More frequent collection of recyclable materials may be necessary to prevent recycling containers from being overfilled and cause materials to be blown about or littered on Township streets and private property.
- 5) The owner, landlord, or agent of an owner or landlord of a commercial, institutional, or municipal establishment must provide a written report to the Township that lists the authorized collector collecting recyclable materials, the name and address of the property that recyclable materials are collected, the total quantity of each type of

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recyclable material collected, and the name and affiliation of the person submitting the report. Reports are to be completed on a form supplied by the Township and shall be submitted annually, 30 days after the close of each calendar year.

Community activities.

- 1) The organizers or sponsors of a community activity must establish a system for source separation, collection, transportation, and recycling of aluminum cans, plastic containers, glass containers, cardboard, high grade office paper, and leaf waste. Arrangements for the source-separation and collection of these materials shall be the responsibility of the organizers or sponsors.
- 2) The organizers or sponsors of a community activity must establish a collection system that includes an appropriate number of recycling containers at easily accessible locations to accommodate the amount of recyclable materials generated. Community activity organizers and sponsors must provide signage and/or labels on recycling containers to indicate what recyclable materials are to be source-separated by event participants.
- 3) Organizers or sponsors must contract with an authorized collector for the collection of recyclable materials.
- 4) Organizers or sponsors of a community activity must provide a written report to the Township that lists the name of the community activity, the authorized collector collecting recyclable materials, the total quantity of each recyclable material collected, and the name and affiliation of the person submitting the report. Reports are to be submitted to the Township no later than 30 days upon the conclusion of the event.

Leaf waste.

- 1) It is prohibited and will be deemed a violation hereof for any person in the Township to put or cause to be put leaf waste with municipal waste or recyclable materials. Leaf waste shall be source separated from municipal waste and recyclable materials generated on any property in the Township and stored in a separate recycling container until collection.
- 2) Nothing herein shall prevent any person from utilizing leaf waste for compost, mulch, or other agriculture, horticulture, or landscaping purposes on the property where the leaf waste is generated.
- 3) All persons in the Township shall arrange to have leaf waste collected curbside or similar location by an authorized collector separate from municipal waste and recyclable materials at a frequency of no less than once per month.

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- 4) The owner, landlord, or agent of an owner or landlord of a multi-family residential, commercial, institutional, or municipal establishment must provide a written report to the Township that lists the authorized collector collecting leaf waste, the name and address of the property that leaf waste is collected, the total quantity of leaf waste collected, the name of the composting facility authorized by the State to receive collected leaf waste, and the name and affiliation of the person submitting the report. Reports are to be completed on a form supplied by the Township and shall be submitted annually, 30 days after the close of each calendar year.

Household hazardous waste, electronic waste, and lead-acid batteries

- 1) It shall be unlawful for any person to commingle hazardous or residual waste, as defined in Act 101, with municipal waste, recyclable materials, and/or leaf waste or to discard or otherwise dispose of hazardous or residual waste except by disposition in compliance with applicable state and federal laws and regulations. For specific material recycling and disposal requirements, refer to the Chester County Solid Waste Authority or Pennsylvania Department of Environmental Protection guidelines.
- 2) It shall be unlawful for any person to commingle a lead acid battery with municipal waste, recyclable materials, and/or leaf waste or to discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a secondary smelter permitted by the U.S. Environmental Protection Agency, or to a collection or recycling facility authorized under the laws of Pennsylvania.
- 3) In accordance with Act 108, no person may dispose of a Covered Device or any of its components with municipal waste. This type of waste requires special collection and disposal arrangements. Information on how to recycle Covered Devices may be obtained by the Chester County Solid Waste Authority or Pennsylvania Department of Environmental Protection. The Township accepts select Covered Devices for recycling at the Township Building during normal operating hours.
- 4) Large and small appliances containing Freon may not be combined with municipal waste. These appliances contain chlorofluorocarbons and Freon that must be removed by a certified professional, and these should be taken to a Freon-certified handler. Freon-containing appliances may include refrigerators, freezers, air conditioning units, dehumidifiers, and water coolers.

Prohibitions.

- 1) Collection by unauthorized persons. From the time of recyclable material placement at the curb or other designated location, it shall be a violation of this article for any person unauthorized by the Township to collect or pick up recyclable materials. Any and each collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereafter provided.

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- 2) Burning of recyclable materials and leaf waste. The burning of recyclable materials and leaf waste shall be prohibited at all times in the Township.
- 3) Littering/illegal dumping. It is unlawful for any person in the Township to dump or deposit recyclable materials, leaf waste, municipal waste, or any other refuse on any private or public property or grounds in the Township.
- 4) Overfilling containers. Containers of recyclable materials, leaf waste, municipal waste, or any other refuse must not be overfilled to provide for or allow materials to become displaced by natural or manufactured elements.
- 5) Storing/stockpiling materials. All persons in the Township are prohibited from storing, processing, or disposing of recyclable material on a property except at a facility or in preparation for the collection by an authorized collector as provided herein. Notwithstanding the forgoing, leaf waste may be composted onsite.
- 6) Public nuisance. It shall be unlawful and a public nuisance for any person to violate, cause or assist in a violation of any provision of this article or violate, cause or assist in the violation of any rule, regulation or resolution promulgated by the Township Board of Supervisors pursuant to this article.

Ownership of recyclable materials.

Nothing in this article or any regulation promulgated pursuant hereto shall be deemed to impair the ownership of recyclable materials by the persons who generated them unless and until separated materials are placed at curbside or similar location and collected by an authorized collector.

Rules and regulations.

The collection of municipal waste and recyclable materials by municipal waste collectors and the preparation and collection of municipal waste and recyclable materials by property owners and residents of the Township shall be made in compliance with any regulations that may be adopted by the Board of Supervisors of New Garden Township to carry out the intent and purpose of this article. Such rules and regulations shall be approved by resolution of the Board of Supervisors and, when so approved, shall have the same force and effect as the provisions of this article. Said rules and regulations may be amended, modified or repealed by resolution of the Board of Supervisors.

Enforcement and penalties.

- 1) Penalties. Any person who violates any provision of this article or of the regulations adopted hereunder or any person who engages in unlawful conduct as defined in this article shall, upon conviction thereof in a summary proceeding before a Magisterial District Judge, be sentenced to pay a fine of not more than \$1,000 and not less than \$50. Each day or portion thereof that such violation continues or is permitted to

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continue shall constitute a separate offense. Each section of this article that is violated shall also constitute a separate offense.

- 2) Injunction. In addition to any other remedy provided in this article, New Garden Township may institute a suit in equity where unlawful conduct or a public nuisance exists as defined in this article for an injunction to restrain a violation of this article or any rules, regulations or resolution promulgated or issued by the Board of Supervisors pursuant to this article.
- 3) Concurrent remedies. The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the township from exercising any other remedy provided by this article or otherwise provided at law or equity.

Construal.

The terms and provisions of this ordinance are to be liberally construed to best achieve and effectuate the goals and purposes hereof. This article shall be construed in pari materia with the Pennsylvania Code of Regulations, Storage, Collection, and Transportation of Municipal Waste and Act 101, and the rules and regulations adopted thereunder.

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**Chapter 168. Solid Waste
Article XX. Collection Requirements**

Title

This article shall be known and may be cited as the “New Garden Township Waste Collection Ordinance.”

Definitions

Act 101

The statewide recycling requirement in Pennsylvania known as the Municipal Waste Planning Recycling and Waste Reduction Act of 1988.

Authorized Collector

Person registered and authorized by New Garden Township to collect, remove, transport, and dispose of municipal waste, recyclable materials, and/or leaf waste for owners or occupants of single-family residential establishments, multi-family residential establishments, commercial establishments, institutional establishments, municipal establishments, and community activities in New Garden Township.

Chester County Waste Management Plan

The Chester County Act 101, Municipal Waste Management Plan, adopted by the Chester County Board of Commissioners on September 25, 1990, and approved by the Pennsylvania Department of Environmental Resources, and which may be amended from time to time.

Commercial Establishment

A building or buildings used or designed for use for commercial purposes, including, but not limited to wholesale, industrial, manufacturing, transportation, financial or professional services stores, markets, office buildings, restaurants, shopping centers, theaters or other commercial activities.

Community Activities

Events sponsored in whole or in part by New Garden Township or conducted within New Garden Township 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 Facility

A facility for composting vegetative material, including leaves, garden residue and chipped shrubbery and tree trimmings that is permitted by the State of Pennsylvania.

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Disposal Facility

A state-permitted facility which processes or acts upon municipal waste so as to dispose of the material, such as an incinerator, a resource recovery plant, a waste-to-energy facility, or a sanitary landfill.

Dwelling Unit

A room or rooms within a building connected together, constituting a separate independent housekeeping establishment for a single family, for owner occupancy or for rental, lease or other occupancy on a monthly or longer basis.

Institutional Establishment

An establishment engaged in service, including but not limited to hospitals, nursing homes, orphanages, schools, universities, churches and social or fraternal societies and organizations.

Leaf Waste

Leaves, garden residues, shrubbery and tree trimmings and similar materials, but not including grass clippings.

Multi-Family Residential Establishment

A building or buildings under single or multiple ownership and designed as a residence for four or more families living independently of each other and doing their own separate cooking therein, including apartments townhomes, or condominiums.

Municipal Establishment

Of or pertaining to any office or other property under the control of any branch or arm of the Federal Government of the United State of America, the Commonwealth of Pennsylvania, or any political subdivision of the Commonwealth of Pennsylvania including, but not limited to, the Township of New Garden, any counties, cities, townships, and municipal authorities.

Municipal Waste

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or gaseous material, resulting from the operations of residential, municipal, commercial or institutional establishments and from community activities and sludge not meeting the definition of residential or hazardous waste in the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, as amended, 35 P.S. § 6018.101 et seq., from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials or leaf waste.

Person

An individual, partnership, association, corporation, institution, cooperative enterprise, municipal authority, federal government or agency, state institution or agency or any other legal entity which is recognized by law as a subject of rights and duties. In any provision of this article prescribing a fine, imprisonment or penalty or any combination of the foregoing,

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the term "person" shall include the officers and directors of any corporation or any other legal entity having officers and directors.

Recyclable Materials

Those materials specified by New Garden Township for collection in accordance with this article and recycling regulations that may be promulgated from time to time for separation, collection, processing, and recovery as part of a recycling program. These materials include aluminum cans, bi-metal containers, corrugated paper, glass containers, leaf waste, magazines, mixed paper, newsprint, high grade office paper, and plastic containers.

Recycling

The separation, collection, processing, recovery and sale or reuse of recyclable materials, which could otherwise be disposed of or processed as municipal waste.

Recycling Container

A container designated by the property owner or resident for the storage of recyclable materials. A recycling container may be provided by the property owner, resident or tenant, or the authorized collector. A recycling container must be durable, watertight, and be at least 13-gallons in size and no more than 95-gallons with a label indicating the container is for recyclable materials.

Recycling Facility

A facility employing a process that separates or classifies recyclable materials 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 does not include transfer facilities, municipal waste landfills, composting facilities or resource recovery facilities.

Single-Family Residential Establishment

An occupied dwelling unit for human habitation, except multi-family residential establishment with four or more units. Home occupations incidental to the residential use within a dwelling unit are considered a "residential establishment."

Source Separation

The separation of recyclable materials from municipal waste at the points of origin for the purpose of recycling.

Township

The governmental jurisdiction and legal entity of New Garden Township, Chester County, Pennsylvania.

Collector registration required.

It shall be unlawful for any person to collect, remove and/or transport municipal waste, recyclable materials, and/or leaf waste within New Garden Township without first registering with the New Garden Township Manager. This includes contractors, companies, organizations, or other entities that perform landscaping or other yard services to persons in

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the Township and transport leaf waste generated from their services off the property where the materials were generated. Exceptions are made for residents who directly deliver (self-haul) their recyclable materials to a recycling facility and/or leaf waste to a composting facility.

Collector registration and approval requirements.

All persons wishing to collect, remove, and/or transport municipal waste, recyclable materials, and/or leaf waste within the Township must annually register and receive authorization from the New Garden Township Manager to provide collection, removal, and transportation services to residential, commercial, institutional, and municipal establishments. Authorized collectors may collect, remove or transport municipal waste, recyclable materials, and/or leaf waste within the Township from the date of authorization until January 31 of the next calendar year, only so long as the authorized collector is in full compliance with the requirements of this article, and any regulations enacted pursuant thereto. Authorized collectors must renew their registration with the Township no later than January 31 of each year in order to continue collecting, removing, and/or transporting municipal waste, recyclable materials, and/or leaf waste in the Township for the subsequent year. Any person whose registration is received and approved by the New Garden Township Manager shall have the privilege of collecting, removing, and/or transporting municipal waste, recyclable materials, and/or leaf waste within the boundaries of New Garden Township. Hauler authorizations are not transferable.

At the time of registration, the person shall provide the following information on a form prepared by the Township.

- 1) The business name, name of a contact person, business address, telephone number, email address, and twenty-four hour emergency telephone number to receive calls from persons in the Township who will be serviced by the person.
- 2) The make, model, year, and registration number of each truck or vehicle used by the person in the Township to collect, remove, and/or transport municipal waste, recyclable materials, and/or leaf waste.
- 3) A certificate of the person's workmen's compensation insurance, as required by law.
- 4) A certificate of insurance coverage providing complete third-party public liability for both bodily injury and property damage, owner's and person's protective insurance and automobile insurance with respect to personal injuries and property damage. Such insurance shall be in amounts that shall be from time to time set forth by the Township by regulations adopted hereunder. Each and every policy of insurance herein mentioned which is required pursuant to the terms of this article shall carry with it an endorsement to the effect that the insurance carrier will convey to the Township, by certified mail, written notice of any modifications, alterations or

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cancellation of any such policy or policies or the terms thereof. The above-mentioned written notice shall be mailed to the Township at least 10 days prior to the effective date of any such modification, alteration or cancellation.

- 5) Current rate schedule, intended areas of operation in the Township, by street, the terms of service, and the scheduled days of collection in different areas of the Township.
- 6) Confirmation the authorized collector provides separate municipal waste, recyclable materials, and leaf waste collection services.
- 7) The name of the disposal facility, in compliance with the Chester County Waste Management Plan and Waste Flow Control Ordinance, where municipal waste will be taken for disposal.
- 8) The recycling facility where the recyclable materials will be taken.
- 9) The state-permitted composting facility where leaf waste will be taken for composting.
- 10) Quarterly reports containing the quantities of municipal waste, recyclable materials, and leaf waste collected from single-family residential establishments, multi-family residential establishments, and commercial, institutional, and municipal establishments in the Township if the person collected municipal waste, recyclable materials, and leaf waste in the Township at any point in the preceding year. Recyclable material quantities must be reported by material type.
- 11) Such other information as the Township, in furtherance of this article, shall deem appropriate and necessary.

Upon receipt and review of this information, the Township will issue an authorization letter to persons who have satisfied all of the requirements of the Township's registration program. This authorization letter will establish the person as an authorized collector.

Conditions of registration approval.

As a condition to the approval of an authorized collector's registration, the authorized collector shall comply with the following:

- 1) Services Required. Provide separate collection, removal, and transportation services for municipal waste, recyclable materials, and leaf waste from persons in the Township with whom the authorized collector provides services.
- 2) Collection equipment and transportation vehicles. The collection equipment and transportation vehicles used for the collection, removal, and transportation of

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municipal waste, recyclable material, and/or leaf waste shall be of the closed metal-body-type. The collected materials shall be enclosed or covered so as to prevent roadside littering, attraction of vermin, or creation of other nuisances. The equipment and vehicles shall be at all times in good and proper mechanical condition and in compliance with the minimum safety and sanitary regulations and statutes of the Commonwealth of Pennsylvania. All such vehicles shall be specifically designed to prevent leakage of liquids or fluids.

- 3) **Establish Preparation Procedures.** Authorized collectors must establish procedures for the separation, storage, and collection of municipal waste, recyclable materials, and leaf waste. The Township and persons serviced must be given adequate notification of these instructions.
- 4) **Notification of Violations.** Authorized collectors shall notify persons they service if violations to this article and the New Garden Township Recycling Ordinance are observed. Notifications shall be on a form provided by the Township. Authorized collector shall provide the Township with a list of the addresses or names of customers receiving a notification within 24-hours of issuance of the notification.
- 5) **Authorization to provide services.** At all times while in the process of collecting, removing, and/or transporting municipal waste, recyclable materials, and/or leaf waste in the Township, a copy of the current, unexpired authorized collector's registration and approval issued by the Township shall be available in each collection vehicle. The driver of the vehicle shall produce the document on request by a Township Code Enforcement Officer or his/her designee or to any police officer of the Township.

Refusal to grant registration approval; suspension; revocation.

- 1) The New Garden Township Manager shall have the right to refuse to approve or authorize a registration to any authorized collector or person or to revoke or suspend previously approved registration or refuse to renew the same if said person or authorized collector submits incomplete or false information to the Township or fails to comply with the Township's hauler registration requirements, any provision of this ordinance or any regulation adopted hereunder, Act 101, the Chester County Waste Management Plan or Waste Flow Control Ordinance, or any other applicable federal, state, or local regulations.
- 2) Refusal to grant registration authorization or suspension or revocation of an authorized collector's registration shall be made in writing by the New Garden Township Manager. The written notification shall indicate the reason for the refusal, suspension, or revocation of the registration and provide a limited opportunity for the authorized collector to satisfy the requirements or issues identified.

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Prohibited acts.

It shall be unlawful and a violation of this article, and grounds for the suspension or revocation of an authorization, for any authorized collector to:

- 1) Collect or transport municipal waste from persons failing to source separate recyclable materials and leaf waste from municipal waste.
- 2) Commingle or mix source separated recyclable materials or leaf waste collected in the Township with municipal waste.
- 3) Fail to provide for the proper disposal of any municipal waste collected or transported within the Township at a disposal facility in accordance with the Chester County Act 101, Waste Management Plan, and the Waste Flow Control Ordinance.
- 4) Fail to recycle recyclable materials and compost leaf waste in accordance with this article and federal and state laws and regulations.
- 5) Commence the collection of municipal waste, recyclable materials, and leaf waste for any property in the Township prior to 6:00 a.m. or after 8:00 p.m.
- 6) Load or operate any vehicle within the Township or transport municipal waste, recyclable materials, and/or leaf waste within the Township in such a manner as to allow municipal waste, recyclable materials, and/or leaf waste to fall upon public roads or upon land abutting the public roads in the Township.
- 7) Fail to replace the containers with their lids or covers in place at the location of collection in an orderly manner and off roads, streets, and/or sidewalks.
- 8) Otherwise create a public nuisance.

Rules for collection.

The collection of municipal waste, recyclable materials, and/or leaf waste by authorized collectors shall be made in compliance with this ordinance or any other regulations adopted by the Board of Supervisors of New Garden Township to carry out the intent and purpose of this article. Such rules and regulations shall be approved by resolution of the Board of Supervisors and, when so approved, shall have the same force and effect as the provisions of this article. Said rules and regulations may be amended, modified or repealed by resolution of the Board of Supervisors.

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Contracting collection services.

The Township or its designated agent may enter into one or more agreements at any time with authorized collectors for the collection of municipal waste, recyclable materials, and/or leaf waste from residential, commercial, institutional, and/or municipal establishments. Procuring collection services from an authorized collector shall be completed using a public bid process that will permit authorized collectors(s) to exclusively collect all or part of the municipal waste, recyclable materials, and/or leaf waste generated in the Township.

Violations and penalties.

- 1) Penalties. Any person who violates any provision of this article or of the regulations adopted hereunder or any person who engages in unlawful conduct as defined in this article shall, upon conviction thereof in a summary proceeding before a District Judge, be sentenced to pay a fine of not more than \$1,000 and not less than \$250. Each continuing day of any violation of this article or unlawful conduct as defined in this article shall constitute a separate offense punishable by a like fine or penalty.
- 2) Injunction. In addition to any other remedy provided in this article, New Garden Township may institute a suit in equity where unlawful conduct or a public nuisance exists as defined in this article for an injunction to restrain a violation of this article or any rules, regulations or resolution promulgated or issued by the Board of Supervisors pursuant to this article.
- 3) Concurrent remedies. The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the Township from exercising any other remedy provided by this article or otherwise provided at law or equity.
- 4) Authorized collectors who shall violate any provision of this article may be reported to the Pennsylvania Department of Environmental Protection by the Township, and may be subject to the revocation of the commonwealth's authorization to transport municipal waste, as described in the amended Waste Transportation Safety Program, 27 Pa.C.S.A. §6201 et seq.

Construal.

The terms and provisions of this article are to be liberally construed to best achieve and effectuate the goals and purposes hereof. This article shall be construed in pari materia with the Pennsylvania Code of Regulations, Storage, Collection, and Transportation of Municipal Waste and Act 101, and the rules and regulations adopted thereunder.