

NEWTON TOWNSHIP

ORDINANCE NO. 1-2022

AN ORDINANCE REGULATING THE SOURCE, STORAGE, COLLECTION AND DISPOSAL OF MUNICIPAL SOLID WASTE AND RECYCLABLE WASTE WITHIN THE CORPORATE LIMITS OF NEWTON TOWNSHIP, LACKAWANNA COUNTY, PENNSYLVANIA; REPEALING PRIOR ORDINANCES; AND PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE

WHEREAS, the Newton Township Board of Supervisors is desirous of regulating the source, storage, collection, and disposal of Municipal Solid Waste ("MSW") and Recyclable Waste within the corporate limits of Newton Township ("Township"); and

WHEREAS, it is necessary and essential as a matter of public necessity to provide for periodic collection and disposal of Solid Waste, in order to promote the health, safety, welfare of the public, and for the convenience of the public; and

WHEREAS, the Township is desirous of regulating the collection, storage, removal and disposal of Solid Waste and to contract with a responsible, designated contractor for the collection, removal and disposal of Municipal Solid Waste as a means to achieve the above stated goals;

WHEREAS, the Township has also determined it to be in the best interest of the Township to regulate and contract with a responsible, designated contractor for the recycling, transportation, collection and storage of recyclable waste.

WHEREAS, on March 29, 2004, the Newton Township Board of Supervisors enacted Newton Township Ordinance No. 1-2004, entitled "An Ordinance Regulating The Source And Collection Of Municipal Solid Waste Placed for Disposal Within the Corporate Limits of Newton Township; and

WHEREAS, on January 2, 2014, the Newton Township Board of Supervisors enacted Ordinance No. 1-2014, entitled "An Ordinance Amending Newton Township Ordinance No. 1-2004, Regulating The Source And Collection Of Municipal Solid Waste Placed for Disposal Within the Corporate Limits of Newton Township."

WHEREAS, on January 7, 2019, the Newton Township Board of Supervisors enacted Ordinance No. 1-2019, entitled "An Ordinance Regulating The Source, Storage, Collection And

Disposal Of Municipal Solid Waste And Recyclable Waste Within The Corporate Limits Of Newton Township; and

WHEREAS, Township has undertaken a review of, and has determined that it is in the best interests of the Township to update, its existing ordinances regulating the source, storage, collection and disposal of Municipal Solid Waste ("MSW) and recycling waste as referenced above; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Newton Township, Lackawanna County, Commonwealth of Pennsylvania, as follows:

SECTION 1. SHORT TITLE

The short title of this Ordinance No. 1-2022 shall be the "Newton Township Solid Waste and Recycling Ordinance."

SECTION 2. REPEALING PRIOR ORDINANCES.

By and as of the effective date of this Ordinance No, 1-2022, the Board of Supervisors repeals Ordinance No. 1-2004, Ordinance No. 1-2014 and Ordinance 1-2019, each in its entirety, and replaces those referenced ordinances with this Ordinance No. 1-2022.

SECTION 3. PURPOSE

It is the purpose of this Ordinance to enact updated and current legislation to protect the public health, safety and welfare from the hazards and threats of the unauthorized and/or improper depositing, collection, storage, removal and disposal of MSW and recyclable waste as provided in the Second Class Township Code, and to provide for a Designated Contractor to accomplish the foregoing with respect to residential establishments and to carry out the duties of the Township under, and pursuant to the authority of, the Pennsylvania Solid Waste Management Act of 1980 and the Municipal Waste Planning, Recycling and Waste Reduction Act, and to regulate the

storage and periodic collection and disposal of Solid Waste and recyclable for other than residential establishments within Newton Township.

SECTION 4. DEFINITIONS

The following words and phrases shall have the meanings set forth below when used in this Ordinance, unless the context clearly indicates otherwise:

- A. "ACT 97" means The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980).
- B. "ACT 101" means The Pennsylvania Municipal Waste Planning, Recycling, and Waste Reduction Act (SB528, Act 1988-201, July, 1988).
- C. "Apartment Building" shall mean a building arranged, designed and intended for occupancy by four (4) or more families living independent of each other in separate residential dwellings, doing their own cooking therein; also known as multi-family rental housing property. A building of three (3) or less such families shall be deemed residential establishments.
- D. "Bags" shall mean plastic sack designed to store Solid Waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents should not exceed 35 pounds.
- E. "Bin" shall mean a metal receptacle designed to be lifted and emptied mechanically for use only at commercial, industrial and institutional establishments. Also commonly known as dumpsters.
- F. "Bulky Waste" shall mean stoves, refrigerators, water tanks, washing machines, furniture, bedding, appliances and waste materials other than construction refuse, dead animals, with weights or volumes greater than those allowed for bins and containers, as the case may be.
- G. "Bundle" shall mean tree, shrub or brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding three feet in length, 12 inches in height or 50 pounds in weight.
- H. "Commercial Establishment" shall mean any establishment or property engaged in non-manufacturing or non-processing business including, but not limited to, stores, markets,

office buildings, restaurants, shopping centers, apartment buildings of four or more residential units, theaters, churches, mobile home parks, institutions and schools.

- I. "Construction Refuse" means scrap, lumber, pipe and other construction materials from construction or remodeling.
- J. "Container" shall mean a receptacle, either round, square or rectangular, with a capacity of greater than 20 gallons but less than 35 gallons, constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the containers by vectors. The mouth of the container shall have a diameter greater than or equal to that of the base. The total weight of any container and its contents should not exceed 60 pounds.
- K. "Day Care Establishment" shall mean a building or establishment whose primary use is to provide care and supervision of minor children. A commercial use.
- L. "Dead Animals" shall mean Animals or portions thereof equal to or greater than 10 pounds in weight that have expired from any cause, except those slaughtered or killed for human use.
- M. "Designated Contractor" (or "Contractor") shall mean the person, corporation or partnership that has entered into a contract with, has otherwise been granted a license or authority by, and/or is performing services for the Township with respect to Municipal Solid Waste and recycling collection, transportation and disposal, and shall also include the representatives, agents and employees thereof.
- N. "Demolition Refuse" shall mean lumber, pipes, brick, masonry and other construction materials from razed structures.
- O. "Disposal" shall include incineration, deposition, injection, dumping, spilling, leaking or placing of Municipal Solid Waste into, on and/or about the land and/or water in such a manner that the waste or a constituent of the waste enters the environment, is admitted into the air, and/or is discharged into the waters of the Commonwealth of Pennsylvania.
- P. "Disposal Site" shall mean any State permitted site, facility, location, area or premises to be used for the disposal of Municipal Solid Waste.
- Q. "Dwelling" shall mean any building or portion thereof designed or used exclusively as a residence or sleeping place of one or more persons, not including a lintel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house or boarding house.

- R. "Dwelling Unit" shall mean one (1) or more rooms in a dwelling, including a Kitchen or Kitchenette, and sanitary facilities in a dwelling, which room or rooms are designed and arranged as a unit for occupancy by one person, two or more persons living together or not more than one (1) family, all for living and sleeping purposes.
- S. "Garbage" shall mean all animal and vegetable wastes attending or resulting from the handling, dealing, storing, preparation, cooking and/or consumption of foods.
- T. "Hazardous Waste" shall mean any material or substance which by reason of its composition is (i) toxic or hazardous waste (A) as defined in the Resource, Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., (B) as defined in Section 6(e) of the Toxic Substances Control Act, 15 U.S.C. Section 2605 (e), (C) under the Pennsylvania Solid Waste Management Act, (D) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601-9657; (E) Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321, as now or hereafter amended; (F) the Hazardous Materials Transportation Act of 1976, 42 U.S.C. §6901-6987, as amended; (G) a toxic pollutant under section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (H) a "hazardous air pollutant" under section 112 of the Clean Air Act, 42 USC. §7412, (I) as now or hereafter amended; a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4), as now or hereafter amended; toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws or amendments to any such laws; or presenting a risk to human health or the environment under other applicable federal, state, or local laws, ordinances, or regulations, as now or as may be passed or promulgated in the future and any material, substances or wastes that are toxic, ignitable, corrosive or reactive and that are regulated by any local governmental authority or the State of Pennsylvania or any agency of the United States. (collectively, the "Hazardous Waste Laws"). "Toxic or Hazardous Substances/Waste" shall also mean any substance that after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities. "Toxic or Hazardous Substances/Waste" specifically includes, but is not limited to, asbestos, polychlorinated

biphenyls ("PCBs"), petroleum and petroleum-based derivatives, and urea formaldehyde, freon and other chlorofluorocarbons; or (J) under any other applicable laws of similar purpose or effect, including but not limited to, with respect to each of such laws in (A) through (J), any replacement, amendment, expansion or supplement thereto and any rules, regulations or policies thereunder; or (ii) source, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. Section 2011, et seq., and any replacement, amendment, expansion or supplement thereto and any rules, regulations or policies thereunder; and (iii) any other material that any governmental agency having appropriate jurisdiction shall determine from time to time as hazardous, toxic, harmful, or dangerous..

- U. "Industrial Establishment" shall mean any establishment engaged in manufacturing or processing, including, but not limited to, factories, foundries, mills, processing plants, refineries and the like.
- V. "Institutional Establishment" shall mean any establishment engaged in service to persons, including, but not limited to, hospitals, nursing homes, orphanages, schools and universities.
- W. "Leaf Waste" shall mean leaves from trees, bushes, shrubs and other vegetative plants.
- X. "Mobile home park" shall mean a parcel of land under single or multiple ownership for the placement of mobile home(s) to be used for non-transient dwelling purposes.
- Y. "Mixed Use Building" shall mean a building whose primary use is residential, but which may also contain a subordinate nonresidential use in the building. If the nonresidential use shall occupy 30% or less of the first floor of the structure, then the building shall be deemed residential use for the purpose of this Ordinance; if, however, the non-residential use occupies more than 30% of the first floor of the structure, then the entire structure shall be deemed a commercial use.
- Z. "Multi-family Rental Housing Property" shall mean apartment buildings and mobile home parks as herein defined ("MFRHP").
- AA. "Municipal Solid Waste" ("MSW") shall mean any garbage, refuse, industrial lunchroom or office waste, and/or any other material, including solid, liquid or semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial, industrial and/or institutional establishments, and/or from community activities, and trace

amounts of hazardous waste normally found in household trash, garbage or refuse, and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial, industrial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility (Act 97, Sec. 103). The term does not include source-separated recyclable materials or "leaf waste" as defined by Act 101, but may include grass clippings.

BB. "Person" shall mean any natural individual, person, association, partnership, co-partnership, firm, corporation, institution, cooperative enterprise, township, borough, county, city, state, municipality, and/or municipal authority, or in any other legal entity whatsoever recognized by law as the subject of rights and duties. In any provisions of this act prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "individual" shall include, by way of explanation and not limitation, the officers and directors of any corporation or other legal entity having officers and directors.

CC. "Processing" shall mean any technology used for the purpose of reducing the volume or bulk of MSW or any technology used to convert and/or segregate part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, incinerators, recycling facilities and resource recovery facilities.

DD. "Producer" shall mean Any occupant of a commercial, industrial, institutional or residential establishment who generates MSW.

EE. "Recyclable Waste" or "Recyclable Materials" means refuse utilized or marketed for reuse or reprocessing rather than disposed of in a disposal site, and included, without limitation, all materials specified by the Township to be recycled including source separated materials defined by Act 101.

FF. "Refuse" means the collective term applying to all garbage, rubbish, recyclable waste, bulky waste, ashes leaves, and grass trimmings from residential, municipal, commercial, industrial or institutional premises and construction and demolition refuse, and includes any material discarded by an individual and shall include, by way of explanation and not limitation, all perishable and non-perishable Solid Wastes (excluding body waste) or other waste, rubbish, trash, garbage, solid matter, semi-solid matter, liquid matter, all contained

gaseous matter, animal matter, vegetative matter, sludge, synthetic matter and ashes exclusive of all hazardous and industrial waste.

GG. "Residential Establishment" shall mean any premises utilized primarily as a residential dwelling unit including, but not limited to, homes and mobile homes. Apartments consisting of five or more residential dwelling units are considered commercial establishments; those containing four or less residential dwelling unit shall be considered residential establishments for the purpose of this Ordinance.

HH. "Scavenge" shall mean the unauthorized removal of Solid Waste or Recyclable Waste placed for collection or from a Solid Waste or recycling processing or disposal facility.

II. "Solid Waste" shall mean any waste, including, but not limited to, municipal, residual, hazardous wastes, including solid, liquid, semisolid, or contained gaseous material.

JJ. "Storage" shall mean the containment of any MSW on a temporary basis in such a manner as not to constitute disposal of such waste. The containment of any MSW for a period in excess of one (1) year shall be conclusively presumed to constitute disposal.

KK. "Township" shall mean the Township of Newton, a Second Class Township, located in Lackawanna County, Pennsylvania.

LL. "Transportation" shall mean the off-site removal of any Municipal Solid Waste generated or present at any time from the Township.

MM. "Yard Waste" shall mean trees, tree limbs, bushes, shrubs, and other vegetative plant waste generated by residential, municipal, commercial, industrial or institutional establishments.

SECTION 5. REGULAR PERIODIC COLLECTION, STORAGE, AND DISPOSAL OF ALL MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL

Every owner, lessee and occupant of any building, structure, premises, residential establishment, property or place of business (including commercial, institutional and industrial establishments) within Newton Township shall be responsible for the regular periodic and proper collection, storage and disposal of all Municipal Solid Waste and recyclable materials generated and/or produced on, about, from and/or within such building, structure, premises, residential establishment, property or place of business, as required by this Ordinance.

SECTION 6. FREQUENCY OF COLLECTION

- A. No person (including an owner, lessee and/or occupant of any building, structure, premises, residential establishment, property or place of business) shall accumulate, or permit or cause the accumulation of, MSW, Solid Waste and/or Recyclable Materials in, on and/or about any building, structure, property, premises, residential establishment, or place of business (including commercial, institutional and industrial establishments) owned, leased or occupied by that person within Newton Township, except for the purpose of regular periodic collection and disposal pursuant to this Ordinance; such collection and disposal shall occur at intervals not less frequent than once every seven (7) days, or at such other times as may be designated by the Township.
- B. All residential collection schedules shall be published regularly by Township or its Designated Contractor or Collector.

SECTION 7. STANDARDS FOR STORING SOLID WASTE

- A. Solid Waste, including bulky waste, shall be stored in a way to prevent the collection of accumulation of water and the attraction, harborage, or breeding of insects or rodents and so as to eliminate conditions harmful to public health or which may create fire or safety hazards, odors, unsightliness or public nuisance.
- B. Solid Waste shall be stored separately from hazardous materials, combustible refuse and lawn clippings.
- C. Storage containers shall be properly stored on the owner's, tenant's, or occupant's premises at all times except in connection with days when the Solid Waste is scheduled for pick up; containers may be placed for collection no earlier than eight o'clock of the evening (8:00 p.m.) prior to the collection date and shall be properly placed at the appropriate collection point as specified in this Ordinance or as otherwise authorized by the Township or its Designated Contractor, and then removed to a proper storage location within a reasonable period of time after collection.
- D. Storage containers shall be kept tightly sealed and covered at all times.
- E. Solid Waste shall not protrude or extend above the top of the storage container.

F. Newton Township, or its Designated Contractor, may specifically require special storage procedures to facilitate the collection and resource recovery (recycling) of certain waste materials.

G. Storage Containers

1. All Solid Waste shall be stored in containers that comply with the minimum standards established by the National Sanitation Foundation, as set forth in this Ordinance, and as approved by Newton Township or its Designated Contractor.
2. Containers shall be used, maintained and stored so as to prevent public nuisances.
3. Any person producing Solid Waste that is not included in the municipal recycling program shall provide a sufficient number of reusable or disposable storage containers to properly and safely store all Solid Waste generated between collection periods.
4. Reusable Containers
 - a. All reusable containers shall:
 - (1) Be provided by the owner, tenant, or occupation of the premises, neither Newton Township nor a Designated Contractor shall be responsible for providing or required to provide reusable containers suitable for collection;
 - (2) Be constructed of durable watertight, rust, and corrosion resistant material such as metal, fiberglass, or plastic, and constructed in a manner as to be leak, weather, insect and rodent proof;
 - (3) Have an opening at the top with a diameter equal to or greater than its base;
 - (4) Have a tight fitting cover and suitable lifting handles to facilitate collection;
 - (5) Have a capacity of not less than 20 gallons, but not more than 35 gallons;
 - (6) Not weigh more than 60 pounds when full;
 - (7) Be kept as sanitary as possible and cleansed and disinfected by the owner, tenant, or occupant periodically to prevent the accumulation of liquid residues or solids on the bottom or sides; and

- (8) Shall not have sharp or ragged edges, or any other defect that may hamper collection or cause injury to collector's personnel.
 - b. Reusable containers that do not comply with any of the standards set forth above shall be immediately replaced by the owner, tenant, or occupant, including upon notice from the Municipality or its Designated Contractor.
- 5. Disposable containers
 - a. All disposable containers shall:
 - (1) Be either a plastic bag or sack designated for municipal waste disposal;
 - (2) Have ties at the top;
 - (3) Have a capacity of not more than thirty (30) gallons;
 - (4) Not weigh more than thirty five (35) pounds when filled;
 - (5) Have sufficient wall strength to maintain physical integrity when lifted by the top.
 - b. Disposable containers that do not comply with any of the standards set forth above shall be immediately replaced by the owner, tenant, or occupant, including upon notice from the Municipality or its Designated Contractor.
 - c. All MSW accumulated by owners or occupants of each residential property or establishment shall be placed in containers, plastic bags and bundles ("Receptacles"), as hereinabove defined for collection by the Township or its Designated Contractor. Receptacles shall be located at ground level and at a point on the curb line of the street so as to be reasonably accessible to the Township or Contractor for collection.

6. Bulk containers

The type, size, and placement of any bulk containers shall be determined by waste generator and Solid Waste collector, subject to the approval of the Township. At a minimum, bulk containers shall:

- (1) Be provided by the owner, tenant, or occupant of the premises.
- (2) Be constructed of durable watertight, rust, and corrosion resistant material such as metal, fiberglass, or plastic and constructed in a manner as to be leak, weather, insect and rodent proof; and

- (3) Have a tight fitting cover and suitable hoisting handles to facilitate collection;
- (4) Be kept as sanitary as possible and cleaned by the owner, tenant, or occupant periodically; and
- (5) Be maintained in a suitable and safe location that does not create a nuisance.

7. Storage racks for receptacles

a. If an owner, tenant, or occupant of a residence or multi-family residence, institution, commercial, or industrialized establishment, restaurant or hotel elects to have racks or holders for storage containers, such racks or holders shall:

- (1) Be made of durable metal or wood;
- (2) Have at least twelve (12) inches of clearance from the ground unless the base is made of concrete or another easily cleaned material; and
- (3) Be placed in a safe and suitable location and manner so as not to constitute a hazard or nuisance.

H. Any person storing garbage, refuse, rubbish, or Solid Waste for collection shall comply with the following:

1. All garbage, refuse, rubbish and Solid Waste shall be thoroughly rinsed and drained of free liquid before placing in storage containers;
2. All garbage, refuse, rubbish, or Solid Waste that is perishable shall be wrapped securely in paper, plastic, or similar material or placed in a properly tied plastic bag.
3. All combustible waste should be separated from non-combustible waste.
4. Inorganic materials, e.g., scrap lumber or firewood, may be kept on private property provided that it is accumulated or stored at least twelve (12) inches above the surface ground).
5. Bulk waste items such as furniture, automobile parts, machinery, appliances, and tires shall be stored in a manner that will prevent the accumulation or collection of water, the harborage of insects or rodents, safety hazards and fire hazards.

6. Newton Township or its Designated Contractor may specifically require special preparation procedures to facilitate the collection and resource recovery (recycling) of certain waste materials.

SECTION 8. STANDARDS FOR COLLECTING SOLID WASTE

A. Place for collection

1. All Solid Waste shall be and remain in storage containers when placed at the collection point.
2. Storage containers placed for collection shall be located:
 - a. At ground level and at a point on the curb line of the street or road adjacent to the property where collection is to occur so as to be reasonably accessible to the Township or its Designated Contractor.
 - b. The Contractor shall pick up the storage containers at the front property line unless there is an agreement in place with the Contractor, subject to Township's approval, for a different collection point.
3. No Solid Waste shall be placed for collection earlier than eight o'clock of the evening (8:00 p.m.) prior to the collection date.
4. All storage containers shall be promptly removed from the collection point within a reasonable period of time following collection.

SECTION 9. ADMINISTRATION

- A. At and at all times after the effective date of this Ordinance No. 1-2022, all MSW and Recyclable Materials generated by and/or accumulated on, about, from and/or within any Residential Establishment in Newton Township shall be stored and placed for periodic collection, and collected and disposed of by the Township or its Designated Contractor.
 - i. All entities other than Residential Establishments, including Commercial Establishments, shall be responsible for arranging, and required to arrange, for proper, regular periodic collection and disposal of MSW and Recyclable Materials produced on and/or by such establishments, which collection and

disposal shall occur at intervals not less frequently than once every seven (7) days.

- B. For and during the period January 1, 2022 to December 31, 2026 (Contract Period), the Township has contracted with Solid Waste Services, Inc. d/b/a J.P. Mascaro & Sons ("Designated Contractor") to collect, transport, store, dispose of, and recycle (as applicable) MSW and Recyclable Materials generated, produced and accumulated in, on, about and/or by Residential Establishments within The Township (the "Contract").
- C. The Designated Contractor shall have the sole and exclusive license and privilege to provide residential MSW collection, removal and disposal services and recycling services, as provided in the applicable Contract, within the Township, for the duration of the Contract Period and any extensions thereof
- D. Any trucks, vehicles, or other equipment used by the Designated Contractor for the collection, transportation and disposal of Solid Waste and recycling materials shall:
 - 1. Comply with the requirements of:
 - a. Act 91 (commonly known as "Pennsylvania Solid Waste Management Act.");
 - b. Act 101 (commonly known as "The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act.");
 - c. All other federal, state, and/or local laws and ordinances;
 - d. All other federal, state, and/or local department or agency rule or regulation;
 - 2. Be subject to inspection and approval by Newton Township Supervisors or designated agent/consultant;
 - 3. Be watertight and enclosed or capable of being enclosed to prevent leakage, roadside littering, attraction of vectors; the creation of odors, and other nuisances;
 - 4. Be operated and maintained in a clean and sanitary condition; and,
 - 5. Display the name of business, business address, the name of the owner of the vehicle or conveyance, and the specific type of Solid Waste transported by the vehicle or conveyance.
- E. The Newton Township Board of Supervisors may, from time to time, adopt and promulgate additional rules and regulations setting forth the terms, conditions and administrative

procedures for collection and disposal of MSW and Recyclable Materials, or otherwise delegate such responsibility to its Designated Contractor.

SECTION 10. COLLECTING AND TRANSPORTING SOLID WASTE

- A. All Solid Waste shall be collected and transported so as to prevent public health hazards, safety hazards, and nuisances.
- B. All Solid Waste from Newton Township shall be transported only to an approved disposal site.
- C. Any vehicle transporting Solid Waste shall not be delayed or placed in a populated area for more than four (4) hours, except that this paragraph does not apply to days when collection is taking place within the Township.
- D. Daily written logs of the quantities of Solid Waste that was transported, its destinations, and time of arrival at its destination shall be maintained by the person transporting the Solid Waste.
- E. Storage containers
 - a. The Designated Contractor shall place the cover on any reusable container after collecting the waste from that container.
 - b. The Designated Contractor shall handle the storage container carefully so as not to spill the contents or damage the container.

SECTION 11. RECYCLING

The Contractor is responsible for the tipping fee/cost/assessment (“fees”) for recycling, as well as, collection and disposal of yard waste including any fees.

All requirements concerning hours of operation, storage, routes, holidays, complaints, collection equipment, hauling and point of contact applicable to the collection and disposal to municipal waste, unless otherwise expressly stated, apply with equal force to the collection of recyclables.

- A. Collections of recyclables by the Contractor will be made one (1) time each week. Single stream method of collection will be utilized. If any county, state and/or federal law requires separation, the Contractor shall comply for the remainder of the contract without additional cost for collection and transportation. Contractor will be responsible

for collection and transportation of the recyclable material designated from time to time to such center as may be permitted by law.

B. Items to be Recycled and Reporting

(a) Recyclable Materials include:

- i. clear glass
- ii. colored glass
- iii. plastic bottles and jars
- iv. aluminum
- v. steel and bimetallic cans
- vi. newsprint
- vii. magazines
- viii. Christmas Trees (see subparagraph (f) below)
- ix. leaf and yard waste (twice a year)
- x. corrugated cardboard and rice paper products

(b) The Township reserves the right to add additional recyclable items at any time.

(c) The Township may change the items recycled. At least thirty (30) days prior to making any such change, the Township will first notify the Contractor and Contractor shall have delivered to each affected residential establishment a Township supplied flyer explaining the change.

(d) The Contractor will be responsible for the collection and recycling of leaf and yard waste.

(e) The Contractor will be responsible for providing separate reports to each municipality on recycling tonnage per month for the municipality's own tonnage, together with such other reports or evidence of same as may be requested by the municipality.

(f) Christmas trees shall be collected, transported and disposed of as MSW and/or as recyclables, by the Contractor.

C. Storage of Recyclables

(a) The Township will purchase or have its residents purchase from it or another entity suitable recycling containers within which residents shall store recyclables. Residents will be required to co-mingle all recyclables in this

container.

- i. If necessary, the Contractor, at the Township's request shall distribute one (1) recycling container to each residential establishment prior to the commencement of curbside recycling collection, and secure acknowledgement of receipts of same.
- (b) If newsprint is collected, the residents will be required to place same in designated recycling containers.
- (c) The Contractor and the Township may mutually establish and publish reasonable standards for the preparation and cleanliness of recyclables.

**SECTION 12. PROHIBITION OF THE PLACEMENT OR TRANSPORTATION FOR
COLLECTION OF MSW ORIGINATING OR GENERATED OUTSIDE OF THE
CORPORATE LIMITS OF THE TOWNSHIP**

No person(s), including but not limited to owners, occupants and lessees of property or refuse collector(s) shall:

- A. Place, or cause to be placed, or have present upon and/or about any property within the Township, any MSW, refuse, garbage, rubbish, recyclable materials or trash for collection and disposal by the Township or a Township Designated Contractor that originated or was generated outside of the corporate limits of the Township; or
- B. Transport, or cause to be transported, any MSW, refuse, garbage, trash, or recyclable materials into Newton Township for collection and disposal by the Township or a Township Designated Contractor, knowing or having reason to know that such material originated or otherwise generated outside of the corporate limits of the Township.

The offenses set forth in subsection A and B are independent violations, and each violation of subsection A. or B. shall constitute a separate offense. Furthermore, without limiting the foregoing, owners, lessees, occupants, as well as any person or entity collecting or transporting MSW as described, shall be jointly and severally liable for offenses under subsections A. and B. hereof.

**SECTION 13. PROHIBITION OF THE COLLECTION OR TRANSPORTATION OF
ORIGINATING OR GENERATED INSIDE THE CORPORATE LIMITS OF THE
TOWNSHIP**

With respect to Residential Establishments, no person(s), including, but not limit owners, occupants, and lessees of property, or refuse collector(s)/ transporter(s), shall:

- A. Place, or cause to be placed, or have present upon any Residential Establishment within the Township, any MSW, refuse, garbage, rubbish or trash originated or generated inside the corporate limits of the Township for collection and disposal by any person other than the Township or a Township Designated Contractor.
- B. Collect or transport, or cause to be collected or transported, any MSW, refuse, garbage, rubbish or trash from any Residential Establishment located within the Township, which, pursuant to this Ordinance, should otherwise be held for collection and disposal by the Township or Township Designated Contractor under Section 5, knowing or having reason to know the same originated or was generated inside of the corporate limits of the Township.

The offenses set forth in subsection A and B above are independent violations, and each violation of subsection A. or B. shall constitute a separate offense. Furthermore, without limiting the foregoing, owners, lessees, occupants, as well as any person or entity collecting or transporting as described, shall be jointly and severally liable for offenses under subsections A. and B. hereof.

SECTION 14. OTHER PROHIBITED AND REGULATED ACTIVITIES

- A. It shall be unlawful for any person to:
 1. Accumulate, bury, collect, convey, dispose of, pack, process, remove, store, transfer, or transport garbage, refuse, or other Solid Waste on private or public property located in Newton Township, except as provided for in this Ordinance;
 2. Bury, collect, convey, dispose of, remove, or transport garbage, refuse, or other Solid Waste from private or public property located in Newton Township without being designated, licensed or otherwise authorized by Newton Township as a designated contractor (i.e., those entities or persons contracted with or designated by the Newton Township Supervisors to collect, convey, pack, transfer, or transport any garbage, refuse, or other Solid Waste), except as provided for in this Ordinance;

3. Scavenge any items, materials, or things from any garbage, refuse, or other Solid Waste that is accumulated, buried, disposed, packed, prepared, processed, or stored on private or public property located in Newton Township, except as provided for in this Ordinance;
4. Salvage or reclaim any Solid Waste within the Municipality except at an approved and permitted resource recovery facility under Act 97 or Act 101, or as otherwise permitted by any applicable Commonwealth, Commonwealth Agency, Municipal, or Municipal Agency's laws, rules or regulations;
5. Discard, dispose, place, or throw any garbage, refuse, or other Solid Waste in or upon any alley, body of water, sewer inlet, sidewalk, or street private or public, located in Newton Township, except as provided for this Ordinance;
6. Bury, collect, convey, discard, dispose, process, or transfer a new or used lead acid battery in Municipal Solid Waste;
7. Use or permit to be used any of their private property in Newton Township as a private accumulating, disposing, packing, preparing, processing, storing, transferring or disposal site for garbage, refuse, or other Solid Waste, except as provided for in this Ordinance;
8. To own or operate a municipal waste processing or disposal facility without a permit from the Department of Environment Resources;
9. Not to use such methods and facilities, as necessary to control leachate, runoff, discharges, and emissions from residual waste in accordance with the Department of Environmental Resources;
10. Not use such methods and facilities as are necessary to prevent the harmful or hazardous mixing of wastes;
11. Use such method and equipment, and facilities, as are necessary to store, collect, and/or transport Solid Waste in a manner that will adversely affect or endanger the environment, public health or welfare and safety.
12. Not to take immediate steps to contain and clean spills, litter, or accidental discharge of Solid Waste and to notify the Department, pursuant to Department regulations, of any such spill, litter or accidental discharge which occur on public highways, public areas, which may enter the waters of the Commonwealth;

13. Refuse, hinder, obstruct, delay or threaten any agent or employee of Newton Township in the course of performance of any duty under this Ordinance, including, but not limited to, entrance and inspection under any circumstance;
 14. Cause or assist in the violation of any provision of this Ordinance;
 15. Accumulate, burn, bury, collect, convey, dispose of, dump, pack, process, remove, store, transfer, or transport garbage, rubbish, refuse, or other Solid Waste on Sunday.
- B. The offenses set forth in subsection A above are independent violations, and each violation thereof shall constitute a separate offense. Furthermore, without limiting the foregoing, owners, lessees, occupants, as well as any person or entity collecting or transporting MSW as described, shall be jointly and severally liable for offenses under and any violation of subsection A. above. Furthermore, each day's continuance of a violation of subsection A shall constitute a separate offense.

SECTION 15. RESIDENTIAL FEES

- A. As of the effective date of this Ordinance and thereafter, each owner of any dwelling unit in any Residential Establishment within Newton Township shall be responsible for the payment of a MSW and Recycling Collection and Disposal Fee.
- B. The applicable MSW and Recycling Collection and Disposal Fees for a Residential Establishment shall be based on the following rates per dwelling per year:

January 1, 2022 to December 31, 2026

MSW Collection and Disposal & Recycling	\$598.08
Each Year Total per household	\$598.08

The annual fees herein set forth above shall be payable in advance in four equal quarterly payments for each calendar quarter. Billing for each quarter shall be mailed out a month in advance or as close thereto as possible, i.e., on the first of December, March, June, and September each year, with the exception of the first billing which shall be on.

Fees shall be paid by the owner of the dwelling unit, and shall be made payable to and forwarded directly to Solid Waste Services, Inc. d/b/a J.P. Mascaro & Sons.

Bills for service shall be mailed to the address specified on the Newton Township street list unless and until a different address is specified by the owner or user of the property to the Township. It is the responsibility of each owner of any dwelling unit in a Residential Establishment to notify the Township of a correct, current address for billing purposes, and to update and/or correct the address as necessary. Failure to receive a bill as a result of incorrect and/or non-current address, and/or refusal to accept or receive a bill mailed to a correct address, shall not excuse nonpayment of any applicable fee or extend the time for payment.

C. Any fee unpaid for thirty days shall be considered delinquent, i.e. payment is due no later than 30 days from the billing date, i.e., normally on the first day of January, April, July and October in each year. A late charge of (\$0) Dollars per dwelling unit shall be added to each delinquent account that remains unpaid for thirty (30) days after the due date. In the event fees remains unpaid for thirty (30) days after the due date, such delinquent accounts will be subjected to civil and/or criminal actions in the Courts of Lackawanna County for collection of the fee, late charges, fines and costs in addition to any and all other appropriate remedies available to the Township or its Designated Contractor. In addition, the Township or its Designated Contractor may terminate service to any property with respect to which any fee imposed hereby is unpaid until all such fees, together with interest; late charges and penalties are paid.

D. Exonerations:

1. Any dwelling unit which is totally unoccupied for an entire calendar quarter, and which generates no MSW or recyclable materials for that calendar quarter, shall be exonerated from the charges set forth in this Ordinance. Such exonerations shall be granted only after the owner has filed an affidavit with the Township certifying that such dwelling unit will be totally unoccupied and that no MSW or recyclable materials will be generated for the applicable quarter. (For purposes of this section, a "quarter" shall be defined as any one of the following three (3) month calendar periods: (1) January, February, March, and (2) April, May, June, (3) July, August, September, and (4) October, November, December.)

2. Any dwelling unit of a Residential Establishment may dispose of MSW, bulky waste and leaf waste generated by and/or thereon upon presentation of satisfactory evidence that such disposal will be accomplished in an appropriate manner without fees, charges or other valuable consideration or exchange. Such exoneration shall be granted only after the owner has filed an affidavit with the Township certifying the method, manner, place and frequency of disposal, together with a statement that same is being done without fees, charges, or other valuable consideration or exchange. Such claim for exoneration shall be filed with the Township Secretary at the Municipal Building, 1528 Newton Ransom Blvd., Clarks Summit, no later than ten (10) days prior to the quarter in which exoneration is claimed. Persons granted exoneration hereunder shall not place MSW, bulky waste or leaf waste for collection by the Township or its Designated Contractor without first filing a written statement with the Township Secretary no later than ten (10) days prior to the date in which he or she desires reinstatement of service.

E. Discounts

Senior Citizen Discount: Any owner/occupant of a dwelling unit located in a residential establishment shall be entitled to a senior citizens discount of 35% off the regular collection fee provided the Following conditions are satisfied: (1) There are no more than a total of two persons residing in the Residential establishment, and (2) At least one of the persons residing in the residential establishment is sixty-two years of age or older. In such case, the occupants of the residential establishment shall be entitled to place no more than one bag of MSW for collection during any particular collection period, exclusive of leaf, bulky waste and recyclables as defined in this Ordinance, at the discounted rate. An additional charge will apply for collection of any MSW in excess of the one bag limit, in which case the occupants of the residential establishment must make prior arrangements and payment for collection of any MSW in excess of the one bag limit.

Low Income Discount: Any owner or occupant of a dwelling unit with a total, aggregate household gross income, among all persons who reside therein, of \$10,000.00 or less shall be eligible for a 50% discount applied to the MSW/Recycling fees required by this Ordinance. Gross income for the purpose of this discount shall be as defined by the Internal Revenue Code 26 U.S.C. Section 61(a), as amended. To be eligible for such discount, the

owner must submit proof of income satisfactory to the Township, including but not limited to a required affidavit which can be obtained from the Township.

SECTION 16. AUTHORITY TO REFUSE TO COLLECT, ABATE AND CHARGE FOR THE REMOVAL OF UNAUTHORIZED MSW

The Township or its Designated Contractor shall have the authority to refuse municipal collection and disposal service to any premises on which unauthorized MSW or recyclable materials are placed for collection and disposal in violation of the terms of this Ordinance. Within ten (10) days after the notice from the Township to do so, the owner, lessee or occupant shall jointly or severally remove, abate and/or otherwise correct the violation. If that person fails, neglects or refuses to abate the violation within the time limit, the Township shall have authority, but not the responsibility, in person or by its agents and/or employees, to remove or abate the violation, and in so doing, shall have authority to enter upon the property of the person in default. Thereupon, the Township or its Designated Contractor shall be entitled to reimbursement for the cost of the removal and additional costs and expenses associated with the abatement or removal from the person who created, continued, caused, or maintained the violation and/or permitted it to exist, that person having failed, neglected or refused to remove or abate the violation, with an additional amount of ten (10%) percent, in the manner provided for the collection of the municipal claims, or by an action in assumpsit; provided, that the cost and expense shall be in addition to any penalty imposed under Section 16 of this Ordinance. Additionally, failure to provide notice in this section shall not be a defense to violations of Sections 9 and 10 hereof.

SECTION 17. PENALTY FOR VIOLATING ORDINANCE

Any person, partnership or corporation who or which violates any provision of this Ordinance shall be subject to a fine not to exceed Six Hundred Dollars (\$600.00) per violation. If any such fine imposed is not voluntarily paid to the Township in a timely manner, the Township shall have the right to initiate a civil enforcement proceeding before a district justice. Upon being found liable in a civil enforcement proceeding commenced by the Township, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in connection with the

enforcement proceedings. Each day that a violation continues unabated, and each section of the ordinance which is found to have been violated, shall constitute a separate violation. All fines, judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township.

SECTION 18. INSPECTION OF MSW

Any person(s) who shall place at curbside, or otherwise, for collection or disposal any MSW, refuse, garbage, rubbish, trash or recyclable materials the Township, shall be deemed to have given consent, whether express or implied, to Newton Township or its Designated Contractor to open and inspect any container, receptacle or enclosure containing, or purporting to contain, MSW, refuse, garbage, rubbish, trash or recyclable materials, for a legitimate purpose associated with administering, enforcing and/or determining compliance with this Ordinance and/or any other applicable law.

SECTION 19. REPEAL OF INCONSISTENT ORDINANCES

Any and all prior ordinances or any part of any ordinance inconsistent with this Ordinance are hereby repealed pro tanto.

SECTION 20. SEVERABILITY AND SAVING CLAUSE

This Ordinance is declared necessary for the preservation of public health and safety, and is enacted pursuant to the police power of Newton Township for that purpose, as well as the authority granted to the Township under the Municipal Waste Planning Recycling and Waste Reduction Act. If any sentence, clause, section, or part of this Ordinance is, for any reason, determined to be invalid, illegal or unconstitutional, the determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Township that this Ordinance would not have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had been included in this Ordinance.

SECTION 21. POWER TO AMEND ORDINANCE

The Board of Supervisors reserves the right amend this Ordinance, or any portion thereof, from time to time, as it shall deem advisable in the best interests of the Township and intention to advance the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 22. FAILURE TO ENFORCE NOT A WAIVER

The failure to enforce or absence of enforcement of any provision of this Ordinance, at any time, shall not constitute a waiver by the Township of its right to enforce any provision of this Ordinance and/or initiate or take enforcement action with respect to the Ordinance at any other time.

SECTION 23. EFFECTIVE DATE

This Ordinance shall become effective five (5) days after the date it is adopted and enacted by vote of the Board of Supervisors.

DULY ENACTED AND ORDAINED, this 14th day of February, 2022, by the Board of Supervisors of Newton Township, Lackawanna County, Pennsylvania, in lawful session duly assembled.

ATTEST:


Secretary

**BOARD OF SUPERVISORS
NEWTON TOWNSHIP**

By: Dr. B. Paemen,

By: Kevin J. Carr

By: _____