

**ORDINANCE NO. 266**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF LOWER POTTS GROVE, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF LOWER POTTS GROVE, CHAPTER 20, PART 4 ENTITLED SOLID WASTE, BY ADDING PART 4 – SOLID WASTE MANAGEMENT, SECTIONS 401 THROUGH 412.**

IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF LOWER POTTS GROVE TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, THAT:

Section 1. The Township of Lower Pottsgrove Code of Ordinances, Chapter 20 – Solid Waste is hereby amended by adding Part 4 – Solid Waste Management, Sections 401 through 412, as follows:

**PART 4**

**SOLID WASTE MANAGEMENT**

**§401. Title.**

This article shall be known and may be cited as the “Municipal Solid Waste Management Ordinance of the Township of Lower Pottsgrove.”

**§402. Purpose.**

It is hereby declared to be the purpose of this article to coordinate and to regulate the storage, collection, and disposal of all solid waste materials as herein defined in order to protect the public safety, health and welfare of the people of the Township of Lower Pottsgrove, hereinafter referred to as the “Municipality.”

**§403. Definitions.**

For the purpose of this article, the following words and phrases shall have the meanings given herein:

ACT 97 – The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980). Editor’s Note: See 35 P.S. §6018.101 et seq.

ACT 101 – The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (P.L. 556, No. 101, July 28, 1988). Editor’s Note: See 53 P.S. §4000.101 et seq.

**ASHES** – The Residue resulting from the burning of wood, coal or other combustible material. The definition excludes ashes resulting from industrial processes.

**AUTHORIZED COLLECTOR** – A person, individual, partnership or corporation or employer or agent thereof authorized by contract with the Municipality to collect Solid Waste, Recyclable Materials and Leaf Waste from Residential Properties, within the Municipal Collection Area under the terms and conditions of this article.

**BULK WASTE** – Large items of Refuse, including but not limited to appliances, furniture and tree branches, which require collection in other than conventional compactor refuse collection vehicles. Bulk Waste shall also include tires and construction materials resulting from residential remodeling.

**COLLECTOR** – A person, firm, company or other entity who is engaged in the collection and/or transportation of Solid Waste, Recyclable Materials and Leaf Waste and is licensed by Montgomery County.

**COMMERCIAL PROPERTIES** – All properties used for industrial or commercial purposes.

**COMPOSTING** – A controlled microbial degradation of organic waste to produce a relatively nuisance-free product of potential value as a soil conditioner.

**COMPOSTING SITE** – A facility at which Composting is done.

**CONTAINER** – A method of storage of Refuse consistent with the provisions of §406 of this article.

**DISPOSAL SITE** – A site, location, tract of land, area or premises used or intended to be used for Solid Waste disposal.

**DUMP** – A site for the consolidation of waste from one or more sources which has little or no management.

**FARM PROPERTY** – A parcel or parcels of land devoted to agriculture, either to raising crops, livestock, poultry or pasture.

**GARBAGE (FOOD WASTE)** – Animal and vegetable waste resulting from the handling, preparation, cooking and serving of food. It does not include wastes from industrial processing or manufacturing of food products, bodies of dead animals or human or animal excrement.

**GOVERNING BODY** – The Board of Commissioners of Lower Pottsgrove Township.

**HAZARDOUS WASTE** – Solid Waste that is especially harmful or potentially harmful to public health. This shall include but not be limited to explosives, toxic materials and medical waste. For purposes of this article, Hazardous Waste does not include small quantities of such waste available on a retail basis to the homeowners (e.g. aerosol cans, pesticides, fertilizers, etc.).

**INCINERATOR** – Any device used for the burning of Solid Waste where the factors of combustion, i.e., temperature, retention time, turbulence and combustion air, can adequately be controlled.

**INSTITUTIONAL PROPERTIES** – Those properties that house or serve groups, e.g. hospitals, schools and/or nursing homes.

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

**MULTIFAMILY PROPERTY** – Any residential structure or group of structures whether attached or detached, permanent or temporary, of five (5) or more dwelling units including, but not limited to, apartments, condominiums, townhouses, and mobile homes.

**MUNICIPALITY** – The Township of Lower Pottsgrove, Montgomery County, Pennsylvania.

**MUNICIPAL COLLECTION** – Collection of Residential Solid Waste, Recyclable Materials and Leaf Waste by an Authorized Collector under contract with the Municipality.

**MUNICIPAL COLLECTION AREA** – Residential Properties immediately adjacent to a public street, a street approved and intended to be dedicated as a public street or a private street in which no more than ten (10) Residential Properties are located and provided that the Board of Commissioners determines that a Municipal Collection can and should occur in furtherance of public health, safety and welfare and that it is financially prudent to do so.

Properties that are excluded from the Municipal Collection Area include:

1. All Multifamily Properties;

2. Any Residential Property not specifically included in the Municipal Collection Area which does not have direct frontage on and access to a public street;
3. Any Residential Property which is part of a community or planned residential development with a community association or other management authority which has elected and/or is currently contracting for private collection of Municipal Waste and Recyclable Materials;
4. Any mobile home park or community;
5. Any Commercial or Institutional Property; and;
6. Any other property which the Board of Commissioners shall determine, in its sole and absolute discretion, shall be excluded.

**MUNICIPAL WASTE** – Garbage, refuse, industrial, lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous materials, resulting from operation of residential, municipal, commercial or institutional establishments and from any community activities and any sludge not meeting the definition of “residual waste” or “hazardous waste” in Act 97 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.

**PERSON** – Any individual, firm, partnership, association, corporation, institution or other entity.

**PRIVATE COLLECTION AREA** – All properties not identified as being included in the Municipal Collection Area. All properties located in the Private Collection Area shall be solely responsible for contracting with a Collector for disposal of Solid Waste in accordance with this Ordinance and paying all of the costs and fees associated therewith.

**RECYCLABLE MATERIALS** – Those materials specified by the Municipality for separate collection in accordance with recycling regulations. Such materials may include but not be limited to aluminum products, ferrous containers, plastic containers, glass, yard wastes and paper.

**RECYCLING** – The separation, collection, processing, recovery and sale or reuse of metals, glass, paper, plastics and other materials which would otherwise be disposed of as Solid Waste.

**REFUSE** – All Solid Wastes, except body wastes, and shall include but is not limited to garbage, ashes, Bulky Waste and rubbish, except that Refuse shall specifically exclude Hazardous Waste and Recyclables as defined by this article.

**RESIDENTIAL PROPERTY** – Properties used as dwellings, including buildings having up to four dwelling units in one building but not including a Multifamily Property.

**RESIDENTIAL SOLID WASTE** – Garbage, Refuse and other discarded solid materials, which is generated from normal maintenance of a Residential Property.

**RESIDUE** – Solid materials remaining after burning, including but not limited to ashes, metals, glass, ceramics and unburned organic substances.

**RUBBISH** – Solid Waste exclusive of garbage (e.g. nonrecyclable glass, metal, paper or plastic) and noncompostable plant material, wood or nonputrescible Solid Waste.

**SALVAGE OPERATION** – Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to automobiles, metals, chemicals, shipping containers or drums.

**SALVAGING** – The controlled removal of reusable materials at a Salvage Operation.

**SANITARY LANDFILL** – A Pennsylvania Department of Environmental Protection approved method of disposing of Refuse on land without creating nuisances or hazards to the public health and safety. This is done by confining Refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation or at such more-frequent intervals as may be necessary.

**SCAVENGING** – Uncontrolled or unauthorized removal of Solid Waste materials or Recyclable Materials, including those Recyclable Materials that have been placed at the street curb for collection.

**SOLID WASTE** – Any waste, including but not limited to municipal, residual or Hazardous Waste, including solid, liquid, semisolid or contained gaseous materials but not including Recyclable Materials and Leaf Waste.

**SOLID WASTE MANAGEMENT** – The purposeful, systematic control of the storage, collection, transportation, processing and disposal of Solid Waste and Recyclable Materials.

**SOURCE-SEPARATED RECYCLABLE MATERIALS** – Materials that are separated from Municipal Waste at the point of origin for the purpose of recycling.

**§404. Collection and Disposal of Waste.**

A. All Solid Waste shall be collected and disposed of in accordance with all federal and state laws and this Ordinance.

B. No person shall permit any Solid Waste to accumulate for a period of longer than seven days upon property owned or occupied by said person in the Municipality.

C. Owners and occupiers of Residential Property within the Municipal Collection Area are hereby required to make accumulated Municipal Waste available for collection as scheduled under the terms hereof.

D. All Municipal Waste accumulated on any Residential Property in the Municipality shall be collected, conveyed and disposed of by a Collector in accordance with the provisions of this Part, except that Recyclable Materials may be collected, conveyed and disposed of by property owners from their own property for the intended purpose of depositing such Recyclable Materials in recycling centers, provided that they comply with the provisions of this article pertaining to Refuse containers and vehicles.

E. All Solid Waste accumulated on Multifamily, Commercial and Institutional Properties shall be part of the Private Collection Area and shall be collected, conveyed and disposed of by private contracts with Collectors. In all such contracts with a Collector, the fee or payment shall be a matter of private agreement between the owners or occupiers and the Collector.

F. It shall be unlawful for any person to collect and dispose of any Solid Waste within the Municipality, except as provided in this Part. Scavenging or other unauthorized removal of Solid Waste placed at the curb of any street shall be unlawful.

**§405. Unlawful Solid Waste.**

A. It shall be unlawful to keep or allow in or about any property within the Municipality Solid Waste of any kind which is obnoxious or offensive by reason of dust or odor or which attracts insects and vermin, except in

covered receptacles. The cover shall be tight and insect-proof. It shall be unlawful to retain accumulation of any of said Solid Waste so as to constitute a menace to the health and safety of any person, it being a presumption that such a menace exists when more than seven days have elapsed after such Solid Waste is originally retained, accumulated or permitted to accumulate; and nothing herein contained shall be construed to permit the retention of any Solid Waste which is or becomes obnoxious or offensive by reason of dust or odor or which attracts insects or vermin.

B. No volatile liquids, explosives, radioactive material or containers which would explode upon contact with heat or fire shall be placed for collection, except small (retail-sold) spray cans.

C. No Hazardous Waste shall be stored or placed for collection on Residential Properties except for small quantities of such waste normally found in the household and available on a retail basis to the homeowner.

**§406. Standards for storage prior to collection.**

A. Every person shall provide sufficient approved Containers for receiving and holding Solid Waste. Containers shall be kept in a sanitary condition at all times.

B. Garbage (food waste) and rubbish shall be stored in a container which shall have a tight-fitting cover, have suitable handles, be watertight, insect proof and animal proof and be able to be carried easily by the collector.

C. Garbage (food waste) shall be drained of liquids.

D. Containers shall be kept tightly covered at all times.

E. Containers shall be of not more than 35 gallons in capacity for Residential Properties, except by special permission by the Municipality.

F. Containers shall not be placed at the curb for collection before 4:00 p.m. on the day preceding a scheduled collection day. Empty Containers shall be removed from the curb by 10:00 a.m. the day following collection.

G. All Solid Waste shall be stored in Containers, except yard waste, magazines or books.

H. Grass clippings shall not be placed for collection. On-site recycling of grass clippings is highly encouraged.

I. The Municipality specifically reserves the right to modify and to specifically provide for some other receptacle for handling of Solid Waste

which the Township Manager may deem to be acceptable, appropriate and beneficial for handling of Solid Waste material.

**§407. Standards for collection.**

A. The Municipality shall have the option of collecting Municipal Waste, or it may contract with authorized collector(s) to provide the service, or it may contract for collection service for Residential Properties only and require private collection service for Multifamily, Commercial and Institutional Properties.

B. Collection requirements.

(1) All Residential Municipal Waste shall be collected at least once each week. All Institutional, Commercial and Multifamily Solid Waste shall be collected as often as required by generated volumes and environmental problems, but not less than one each week.

(2) All Recyclable Materials and Leaf Waste shall be collected in accordance with Part 2 of this Chapter.

C. The Collector shall establish and record a regular collection schedule. If collection is scheduled once each week and the collection day falls on a holiday, then the collector shall notify all customers of when collection shall be made during the holiday week.

D. All collection and transportation vehicles shall be constructed of metal or other impervious materials, able to be enclosed or fitted with a cover which will be used to prevent spillage of the contents. All waste materials dropped on streets or roads shall be immediately picked up.

E. All vehicles shall be cleaned at sufficient frequency to prevent odors, vectors and other nuisances.

F. Place of collection.

(1) Containers for all Residential Properties in the Municipal Collection Area shall be placed at the curb or street line of the adjacent public street, at ground level, and be made readily accessible to the Authorized Collector.

(2) Notwithstanding provision of this Section, all residents of properties in the Private Collection Area may, by mutual agreement with Collectors, be permitted to place containers at a location on their property other than as specified in Subsection F(1).



**§408. Prohibited activities.**

A. It shall be unlawful for any person to bury or burn Wastes of any kind within the Municipality.

B. It shall be unlawful for any person to store, collect, throw, place or deposit or cause or permit to be thrown, placed or deposited any Waste of any kind upon any street, alley, sidewalk, body of water or public or private property, except as provided in this Ordinance.

C. It shall be unlawful to violate any provision of this Ordinance.

**§409. Injunctions.**

The Township Manager may petition the Court of Common Pleas for an injunction, either mandatory or prohibitive, to enforce this Ordinance and any Resolutions, rules and regulations promulgated hereunder.

**§410. Violations and penalties.**

Any person who violates any provision of this Article is guilty of a misdemeanor which is punishable, upon conviction, by a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment for a period not exceeding 30 days, or both. Each day of violation is a separate and distinct offense.

**§411. Removal of Wastes constituting nuisance.**

In the case of neglect or refusal of any owner or occupant to comply with the provisions of this Part, the violation may be corrected by any officer, employee or agent of the Municipality designated by the Township Manager, and the cost of such removal with an additional penalty of ten (10) percent as provided by law in the case of nuisances, shall be collected in the manner provided by law for the collection of municipal claims, either by the filing of a lien, civil action or any other authorized manner. Notice of the violation and the Municipality's intent to cure the violation shall be posted upon the offending premises at least twenty-four (24) hours prior to any Municipal remedial action. However, said notice of violation and intent to cure shall not be required where the subject property has received two (2) prior notices within any twelve (12) month period.

**§412. Service fee for Municipal Collection.**

A. A service fee for Municipal Collection is hereby imposed for each residential dwelling unit in the Municipal Collection Area. Where a Residential Property contains more than one dwelling unit, the fee shall be for each unit. The fee shall be charged and billed to the owner of each Residential Property or dwelling unit. Each residential dwelling unit shall be charged the sum of One Hundred and 00/100 Dollars (\$100.00) annually. Any future change in the service fee shall be established from time to time by resolution of the Board of Commissioners.

B. The service fee shall not apply to any properties in the Private Collection Area.

C. All bills for the collection of this service charge or fee shall be sent to the affected property owners at such time, frequency and such manner as may be directed by the Township Manager.

D. The face amount of the bill shall be due and payable thirty (30) days from the date of the bill. All funds received shall be deposited in the proper accounts of the Township. The Township Manager may appoint either the Township Authority or Treasurer to be the collection agent for the Township in which case the bills may be payable to the collection agent and then delivered to the Township Finance Director. If the bill is not paid within thirty (30) days after the date of the bill, a ten (10) percent penalty shall be added thereto. If the bill, plus penalty, is not paid within sixty (60) days after the date of the bill, the aggregate amount thereof shall bear interest from the penalty date at a rate of six (6) percent per annum until paid in full. Any unpaid bills (together with penalties and interest thereon, to the extent permitted by law) and all collection costs including but not limited to attorney's fees and court costs, shall be a lien on the property served, which may be collected by action in assumpsit and/or by lien filed in the nature of a municipal claim as authorized by law.

**§413. Rules and Regulations.**

The Board of Commissioners may, from time to time, adopt regulations to carry out the intent and purpose of this Part. Such rules and regulations shall be approved by resolution of the Board of Commissioners and, when so approved, shall have the same force and effect as the provisions of this Part. The said rules and regulations may be amended, modified or replaced by resolution of the Board of Commissioners.

Section 2. Should any Section or provision of this Ordinance be declared to be unconstitutional or invalid, such decision shall not affect the validity of any other Section or provision of this Ordinance.

Section 3. All prior addendums or provisions in conflict with the provisions set forth herein are hereby repealed.

Section 4. This Ordinance shall become effective as of January 1, 2007.

ENACTED AND ORDAINED this 26<sup>th</sup> day of October, 2006, by the Board of Commissioners of Lower Pottsgrove Township, Montgomery County, Pennsylvania.

BOARD OF COMMISSIONERS OF  
LOWER POTTS GROVE TOWNSHIP

By:

Bruce L. Foltz, President  
Bruce L. Foltz, President

Attest:

Michele M. Cappelletti  
Michele M. Cappelletti, Secretary