

ORDINANCE NO. 267

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF LOWER POTTS GROVE, MONTGOMERY COUNTY, PENNSYLVANIA, REPEALING IN THE CODE OF ORDINANCES OF LOWER POTTS GROVE, CHAPTER 20, PART 2 ENTITLED RECYCLABLE WASTE, SECTIONS 201 THROUGH 214 AND ENACTING NEW SECTIONS 201 THROUGH 214.

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

Section 1. CHAPTER 20 – SOLID WASTE, PART 2 entitled “Recyclable Waste”, Sections 201 through 214 is hereby repealed in its entirety. In its place is hereby enacted the following:

PART 2

RECYCLABLE WASTE

§201. Legislative Purpose.

1. The reduction of the amount of municipal waste and conservation of recyclable materials is an important public concern by reason of the growing problem of municipal waste disposal and its impact on the environment.
2. This effort includes the collection of newsprint, aluminum cans, bimetallic cans, segregated clear, emerald and amber glass bottles and leaf waste for recycling from residences and high grade office paper, aluminum cans, corrugated paper and leaf waste from commercial and institutional establishments in Lower Pottsgrove Township and such other recyclable materials that shall be by resolution determined to serve the general public interest by reducing the volume of municipal waste which must be disposed thereby reducing storage, collection, transportation and disposal costs of said waste and preserving valuable natural resources.
3. This Part has been developed to implement municipal responsibilities under the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. §4000.101 et seq. (Act 101).

§202. Definitions.

Unless the context clearly indicates otherwise, the following words and phrases used throughout this Part shall have the following meanings:

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.

AUTHORIZED RECYCLABLE COLLECTOR – That collector of Recyclable Materials and Leaf Waste awarded a contract by the Township of Lower Pottsgrove to collect and dispose of those materials as specified by Lower Pottsgrove Township. The Authorized Recyclable Collector will only collect Recyclable Materials from Residential Properties within the Municipal Collection Area.

GLASS – All products made from silica or sand, soda ash and limestone; the product may be transparent, translucent or colored and may be used as a container for packaging or bottling of various matter.

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.

MUNICIPAL COLLECTION – Collection of Residential Solid Waste, Recyclable Materials and Leaf Waste by an Authorized Collector and/or Authorized Recyclable 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.

NEWSPRINT – Paper of the type commonly referred to as newsprint and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest.

PERSON – Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipal authority, trust, governmental agency or any other legal entity or any group of such persons whatsoever which is recognized by law as the subject of rights and duties. In any provision of this Part prescribing a fine, penalty or imprisonment or any combination of the foregoing, the term “person” shall mean the officers and directors of any corporation or other legal entity having officers and directors.

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 Recyclable Materials 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.

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

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.

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

Refer to Part 4, Section 403 for additional definitions. To the extent that the definitions contained in this Part conflict with the definitions contained in Part 4, the definitions contained in this Part 2 shall control in this Part.

§203. Establishment of Program; Grant of Power.

Lower Pottsgrove Township hereby establishes a recycling program for the mandatory separation and collection of the designated Recyclable Materials stated above from all properties in the Township. Collection of the materials to be recycled shall be made by Lower Pottsgrove Township, its Authorized Recyclable Collector or a private Collector.

§204. Separation and Collection.

1. All persons within the Township shall separate Recyclable Materials from Municipal Waste produced at their Residential Properties and shall store such materials for collection and shall place same for collection in accordance with this Part.

2. An owner, landlord or agent of any owner or landlord of a Multifamily Property shall comply with its recycling responsibilities by establishing a collection system at each property. The collection system must include suitable containers for collection and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Arrangements shall be made by the owner for collection of these materials by a private Collector.

3. All property owners must separate Leaf Waste from other Municipal Waste generated at their property for collection. Owners must either

provide for composting of Leaf Waste or if not composted then the Leaf Waste must be collected by a licensed collector at least once per month at the property.

4. Persons must separate high grade office paper, aluminum, corrugated paper and Leaf Waste generated at commercial, municipal or institutional establishments and from community activities and store the material until collection for recycling. Arrangements shall be made for collection of these materials by a private Collector.

§205. Collection Prohibited.

It shall be a violation of this Part for any Person, other than a licensed Authorized Recyclable Collector or private Collector to Scavenge or collect recyclables placed by a resident for collection, unless such Person has prior written permission to make such collection as set forth in this Part. Each unauthorized collection in violation hereof from one (1) or more residences on one (1) calendar day shall constitute a separate and distinct offense punishable as hereinafter provided.

§206. Residential Property (up to four dwelling units).

A. Separation.

1. **Recyclable Materials.** All residents of Residential Properties in the Township shall separate Recyclable Materials from the Municipal Waste generated at their property. When placed at the public street curb for collection in accordance with this Part, Recyclable Materials shall be placed in separate reusable plastic containers which clearly identify the contents as recyclables. Such containers shall initially be provided by the Township. Any resident who otherwise properly provides for the disposal of Recyclable Materials at a recycling center shall not be subject to the provisions of this Part.

2. **Leaf Waste.** All residents of Properties in the Township shall separate Leaf Waste from other Municipal Waste generated at their property and shall recycle the same in accordance with this Part. Leaf Waste from a Residential Property may be composted on that property

B. **Collection.** Collection of Recyclable Materials and Leaf Waste within the Municipal Collection Area shall be contracted for by the Township and performed by the Authorized Recyclable Collector. Collection of Recyclable Materials and Leaf Waste within the Private Collection Area shall be contracted for and paid by the property owner.

§207. Multifamily Property and Residential Property Recycling within the Private Collection Area.

A. Separation.

1. **Recyclable Materials.** All residents of Multifamily Properties in the Township shall separate Recyclable Materials from the Municipal Waste generated at their property. Owners, landlords or community association officials must submit a report to the Township specifying that the materials specified to be recycled by the Township are being collected and that a licensed collector is removing the Recyclable Materials and handling them in accordance with all applicable laws and this Ordinance and specify the quantity of Recyclable Materials collected. The report must include information of suitable collection containers and written instructions to the occupants concerning the use and availability of the Recyclable Material collection system.

2. **Leaf Waste.** Owners, landlords, agents or community association officials must insure that Leaf Waste generated on their property or within the development or community is separated from Municipal Waste and recycled in accordance with Act 101 and this Ordinance and shall be collected no less than once per month for their property.

B. Collection. Owners of these properties, since they are not within the Municipal Collection Area, are solely responsible for contracting with private Collectors in order to comply with this Part.

§208. Commercial Recycling.

A. Separation.

1. **Recyclable Materials.** All persons occupying Commercial Properties shall separate Recyclable Materials from the Municipal Waste generated at their property. Pursuant to this part any amendment to the rules and regulations will be enacted by resolution specifying the materials to be separated, the requirements for collection and the type and frequency of necessary reports.

2. **Leaf Waste.** All persons occupying commercial properties must insure that Leaf Waste generated at their property is separated from Municipal Waste and recycled properly with collection no less than once per month.

B. Collection. Collection of Recyclable Materials shall be made only by licensed, private Collectors.

C. Registration. All owners of Commercial Properties which generate Municipal Waste shall register with the Township on at least an annual basis. Said registration shall include the following:

1. Name, telephone number, address, location and contact person.
2. Type of business and approximate number of employees.
3. Nature and kind of waste generated.
4. Name of waste hauler and documentation that hauler is properly licensed and complies with all requirements of applicable Township ordinances, County and Statewide waste disposal regulations.
5. Brief description of Recyclable Materials generated and how handled.
6. At least an annual summary of the amount of materials recycled by major type.
7. Signature of certification of accuracy of information by responsible official or business owner.

§209. Prohibition.

No person shall place Municipal Waste in containers used for the separation and collection of Recyclable Materials. No person shall place Recyclable Materials in containers used for the collection of Municipal Waste.

§210. Notice of Violation.

Any person who violates any of the provisions of this Part shall receive an official written notice of noncompliance from the Township for the first and second offenses. Thereafter, all such violations shall be subject to penalties hereinafter provided.

§211. 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.

§212. Criminal Penalties.

Any person, other than a municipal official exercising his official duties, who violates any provision of this Part, any resolution, rule or regulation enacted hereunder, or the terms or conditions of any contract awarded to the implementation of this Part shall, upon conviction thereof, be sentenced to pay a fine of no less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) plus costs and, in default of the payment of such fine and costs, to a term of imprisonment for not more than thirty (30) days. Each day a violation continues shall constitute a separate offense.

§213. Other Means of Disposal.

Any resident may donate or sell Recyclable Materials to any person, firm or corporation whether operating for profit or not; provided that the receiving person, firm or corporation shall not collect such donated Recyclable Materials from the collection point of a residence without prior written permission from the Township to make such collection.

§214. Enforcement

Any person, firm or corporation who shall violate the provisions of this Part shall receive an official written warning of noncompliance for the first offense. Thereafter, all such violations shall be subject to the penalties hereafter provided. The Township reserves the right not to collect Municipal Waste containing Recyclable Materials in combination with non-recyclable materials.

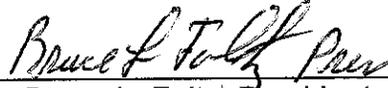
Section 2. Should any Section or provision of this Ordinance be declared to be unconstitutional or invalid, such decision shall not affect the validity of any other Section or provision of this Ordinance.

Section 3. This Ordinance shall become effective as of January 1, 2007.

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

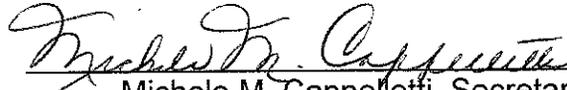
BOARD OF COMMISSIONERS OF
LOWER POTTS GROVE TOWNSHIP

By:



Bruce L. Foltz, President

Attest:



Michele M. Cappelletti, Secretary