

BIRMINGHAM TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
ORDINANCE NO. 10-04

AN ORDINANCE AMENDING CHAPTER 97 OF THE BIRMINGHAM TOWNSHIP CODE, TITLED, "SOLID WASTE", TO ADOPT THE CHESTER COUNTY MUNICIPAL WASTE MANAGEMENT PLAN DATED AUGUST 2009 AND TO REQUIRE MANDATORY RECYCLING OF CERTAIN RECYCLABLE MATERIALS.

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Birmingham Township, as follows:

SECTION 1. Chapter 97 of the Birmingham Township Code, titled, "Solid Waste", shall be deleted and replaced in its entirety with the following:

"ARTICLE I
Solid Waste Management Plan

The Board of Supervisors of Birmingham Township accepted and adopted the Chester County Municipal Waste Management Plan dated August 2009 as the official solid waste management plan for the Township in compliance with the Pennsylvania Solid Waste Management Act of 1968 (35 P.S. § 6018.101 et seq.)

ARTICLE II
Municipal Waste and Recycling

§ 97-1. Title.

This chapter shall be known as the "Birmingham Township Municipal Waste Collection and Recycling Ordinance."

§ 97-2. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated below:

ALUMINUM CANS – empty, 100 percent aluminum beverage and food containers.

BIMETALLIC CANS – empty food or beverage containers consisting of both steel and aluminum.

COMMERICAL – of or pertaining to any wholesale, retail, industrial, manufacturing, transportation, or financial or professional service or office enterprise, business or establishment.

CORRUGATED PAPER – structural paper material with an inner core shaped in rigid parallel furrows and ridges, of the type normally used to make packaging cartons and boxes.

CURBSIDE COLLECTION – a method of collection of residentially-generated recyclables by which the owners or occupants of certain residential properties may dispose of their recyclables by placing them at curbside (or similar place along the public right-of-way fronting their properties), at times designated by the private hauler or by resolution of the Township Board of Supervisors, for collection and removal by a private hauler for delivery to a recycling center.

DEP- Pennsylvania Department of Environmental Protection.

GLASS CONTAINERS – empty food and beverage jars or bottles made from silica or sand, soda ash, and limestone, the product being transparent or translucent (either clear, green or brown) excluding, however, blue glass, flat glass, plate glass, glass commonly known as “window glass,” automotive glass and ceramic and porcelain products.

HIGH-GRADE OFFICE PAPER – any white paper of the type commonly used for letter writing stationary, note paper, plain paper photocopying machines, computer printers and other general-purpose paper, whether or not any printed or written matter is contained thereon, excluding, however, newspaper, junk mail or other chemically coated paper or corrugated paper.

INSTITUTIONAL – of or pertaining to any establishment engaged in service to persons including, but not limited to, hospitals, nursing homes, orphanages, schools, universities, churches and social or fraternal societies and organizations.

JUNK MAIL – magazines, glossy or other chemically coated paper, and any other paper products, including, but not limited to, construction paper, wrapping paper, phone books, paperback books, paper food boxes (excluding plastic liners and plastic windows), tablet paper and Post-it Notes, manila envelopes, file folders, fax paper, clean tissue paper, catalogues, gift boxes (excluding liners), and paper bags, expressly excluding hardback books, high-grade office paper, newspaper, corrugated paper, photographs, overnight envelopes, pizza boxes and other packaging with food contamination, soiled napkins, soiled paper towels, soiled tissue, carbon paper, foil wrapping paper, paper food packaging with plastic, metal, foil or cellophane parts, or with wax or plastic coatings.

MULTI FAMILY DWELLING UNIT- a type of residential property either under single ownership or organized as a condominium or cooperative form of housing which contains four or more dwelling units per structure. This term excludes mobile home parks.

MUNICIPAL- of or pertaining to any office or other property under the control of any branch or arm of the federal or state government or any political subdivision of the Commonwealth of Pennsylvania, including Birmingham Township.

MUNICIPAL WASTE - Any garbage, refuse, industrial lunchroom or office waste and other material including solid, liquid, semisolid or contained gaseous material

resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste hereunder from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant, or air pollution control facility.

NEWSPAPER – paper of the type commonly referred to as “newsprint” and 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. The term “newspaper” expressly excludes junk mail or other chemically coated paper, high-grade office paper and any other paper products of any nature.

PERSON – any natural person, firm, corporation, partnership, association or institution.

PLASTIC #1 (PET) CONTAINER – plastic containers imprinted with the SPI Code No. 1, such as beverage bottles, dishwashing soap bottles, shampoo bottles and similar items, excluding lids and caps.

PLASTIC #2 (HDPE) CONTAINER – plastic containers imprinted with SPI Code No. 2, such as plastic milk jugs, water bottles, detergent bottles, and similar items, but excluding lids, caps and motor oil bottles.

PRIVATE HAULER – a person licensed by the Commonwealth per the amended Waste Transportation Safety Program, 27 Pa. C.S.A. §6201 *et seq.*, to collect, haul, transport and dispose of municipal waste and/or recyclables. All such haulers shall comply with the provisions of the aforementioned program, as well as all Federal, State, and local laws, rules and regulations.

RECYCLABLE MATERIALS OR RECYCLABLES – materials designated as recyclable in this Chapter and recycling regulations which may be promulgated from time to time. The Township hereby designates glass containers, bimetallic cans, aluminum cans, high-grade office paper, newspapers, corrugated material and plastic #1 and plastic #2 containers as recyclable materials and recyclables. The list of recyclable materials may be amended from time to time by resolution of the Board of Supervisors of Birmingham Township.

RECYCLING CENTER – a facility designated to, and which does, act as a collection center for the processing, storage and shipment of recyclables. The term specifically excludes transfer stations and landfills for solid waste and composting facilities and resource recovery facilities and, specifically excludes charitable organizations that accept recyclables for collection but do not process such recyclables.

RESIDENTIAL PROPERTIES- single family dwellings and multi-family dwellings with less than 4 dwelling units.

TOWNSHIP- Birmingham Township, Chester County, Pennsylvania.

§ 97-3. Required Collection of Municipal Waste.

A. All owners of private property within the Township shall provide for the regular preparation, collection and removal of all municipal waste generated at such properties in the manner set forth herein.

B. All municipal waste generated at residential properties within the Township shall be collected and removed at regular, scheduled collection intervals at least once each week, except where conditions prevent it which are beyond the control of the owner or occupant of the property or the private hauler (as applicable).

C. Nothing herein shall limit the right of the Township to implement public collection of municipal waste or recyclables either by entering into contracts or by engaging in any collection practice permitted by law.

D. Nothing in this Section shall modify the requirements of this Chapter pertaining to separation and disposal of recyclables.

§ 97-4. Authorization of collectors/haulers.

Only a person or entity authorized by the Pennsylvania Department of Environmental Protection in accordance with Act 90 of 2002, the Waste Transportation Safety Act, 27 Pa.C.S.A. § 6201 et. seq., may collect municipal waste and recyclables within the Township. Authorized haulers shall comply with the reporting requirements in § 97-5 of this Chapter.

§ 97-5. Reporting requirements of authorized haulers.

All persons authorized to collect municipal waste or recyclables under §97-4 shall submit an annual report to the Township which contains the information specified herein.

A. The report shall contain a list of the establishments in the Township, including street addresses, for which the authorized hauler collected municipal waste or recyclables.

B. The report shall give the total weight of municipal waste and the total weight of each recyclable material collected by the authorized hauler in the Township.

C. The report shall be submitted to the Township each year no later than February 15 and shall include the information required by Subsections A and B for the immediate preceding calendar year.

D. Failure to file the required report in a timely manner shall subject the authorized hauler to the penalties provided for in §97-13 of this Chapter.

§ 97-6. Disposal of Municipal Waste.

All municipal waste collected from properties in the Township shall be transported and disposed of only at a facility or landfill approved by the DEP.

§ 97-7. Establishment of Recycling Program.

There is hereby established a program for the mandatory separation and collection of recyclable materials from municipal waste, as set forth herein, from all residential, commercial, institutional and municipal properties within the Township.

§ 97-8. Separation of Recyclables.

Recyclables shall be kept separate from and disposed of separately from municipal waste until they are collected for recycling in accordance with the provisions of Section 97-9.

§ 97-9. Handling and Placement for Removal of Recyclables.

A. At all residential properties the recyclable materials shall either be placed at curbside to be collected by a private hauler at times designated by the private hauler or by resolution of the Township Board of Supervisors or taken directly to a recycling center by the property owner. The materials which are defined as recyclable materials or recyclables in Section 97-2, or as amended by the Board in a Resolution, shall be placed in separate, reusable containers which clearly identify the contents as recyclables. Nothing in this chapter shall be deemed to impair the ownership of recyclable materials by the residents who generated them unless and until the recyclable materials are placed at curbside for collection by a private waste hauler.

B. For multi family dwellings, commercial, institutional and municipal, properties, all recyclable materials shall either be delivered directly to a recycling center or shall be picked up by a private hauler separately from municipal waste in a prearranged manner as required by the private hauler to be recycled.

§ 97-10. Authorization of Private Haulers.

A. With the exception of those persons who directly deliver (self-hauler) their municipal waste and/or recyclables, it shall be unlawful for any person, other than such persons as are duly authorized by the Commonwealth, to collect or remove municipal waste or recyclables from any other person's property, and transport municipal waste or recyclables within or from the Township. Any and each such collection in violation hereof from each location shall constitute a separate and distinct offense punishable as hereinafter provided.

B. All agreements for collection, transportation and disposition of municipal waste and recyclables shall be by private contract between the owner or occupant of the property where the waste is generated and the private hauler who is to collect such waste and/or recyclables.

C. Nothing in this Chapter shall be construed to prevent, penalize or otherwise make illegal the donation of recyclables to any person, partnership, corporation or charitable entity.

§ 97-11. Responsibilities of Private Haulers Collecting Within the Township.

A. All private haulers shall have an affirmative duty to follow and conduct themselves in accordance with their current license or permit, as issued by DEP or other applicable authorized agency, and to service each of their customers in accordance with each customer's recycling plan (where applicable), failure of which shall be a violation of this Chapter.

B. All private haulers contracted for the collection of municipal waste from residential properties within the Township shall provide their customers the service of recyclable collection as described herein. Failure to provide such recyclable collection shall be in violation of this Chapter.

C. All private haulers who collect and transport recyclable materials within the Township shall ensure the marketing and recycling of the collected materials.

D. All private haulers contracted for the collection of municipal waste within the Township shall convey and dispose of municipal waste only at such sites approved by the DEP.

§ 97-12. Enforcement and Administration.

The Township Board of Supervisors and the Building Code Official are hereby authorized and directed to enforce this Chapter. The Board of Supervisors is hereby authorized and may establish by resolution reasonable regulations as to the manner, materials, days of each month, and times for the collection of municipal waste and recyclable materials in accordance with the terms hereof, and any other matters required to implement this Chapter. The Board of Supervisors may change, modify, repeal or amend any portion of said rules and regulations at any time either by Resolution or by Ordinance duly enacted in accordance with applicable laws.

§ 97-13. Violations and Penalties.

Any person, partnership, corporation or association who shall violate any provision of this chapter shall, upon being found liable therefor in a civil proceeding commenced by the Township before a District Justice, pay a fine for each such violation in an amount no less than \$50.00 and no more than \$600 plus all court costs, including reasonable attorney's fees incurred by the Township. Each continuing day of any violation of this chapter shall constitute a separate offense punishable by a like fine or penalty."

SECTION 2. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. Repealer. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

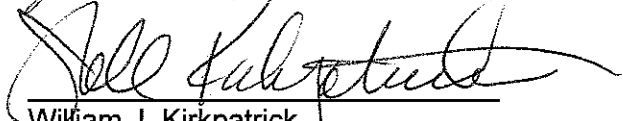
SECTION 4. Effective Date. This Ordinance shall be effective five (5) days after enactment as by law provided.

ENACTED AND ORDAINED this 4th day of October, 2010.


**BOARD OF SUPERVISORS
BIRMINGHAM TOWNSHIP**



John L. Conklin, Chairman




William J. Kirkpatrick,
Vice-Chairman



Alfred W. Bush, Member

Attest:



Quina Nelling, Secretary