

ORDINANCE NO. 188, 2008

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER XII, ENTITLED "GARBAGE, REFUSE, SOLID WASTE AND RECYCLING" OF THE CODE OF ORDINANCE OF THE TOWNSHIP OF TILDEN TO ESTABLISH A NEW PART 3, ENTITLED MUNICIPAL WASTE AND RECYCLABLE COLLECTION" TO ESTABLISH A MUNICIPAL RECYCLING PROGRAM AND SPECIFICALLY TO ESTABLISH THE TITLE; TO ESTABLISH DEFINITIONS; TO DESIGNATE RECYCLABLE MATERIALS; TO ESTABLISH THE SEPARATION OF RECYCLABLE MATERIALS; TO ESTABLISH REGULATIONS FOR COMMERCIAL, MUNICIPAL OR INSTITUTIONAL SEPARATION AND COLLECTION; TO ESTABLISH DROP-OFF LOCATION AND ACCESS; TO ESTABLISH EXEMPTIONS; TO DESIGNATE OWNERSHIP OF MATERIALS; TO ESTABLISH MANDATORY REMOVAL BY LICENSED HAULERS; TO REGULATE MUNICIPAL WASTE/RECYCLABLE COLLECTORS; TO ESTABLISH VIOLATIONS; TO ADOPT RULES AND REGULATIONS; TO ESTABLISH PENALTIES; AND TO ESTABLISH SEVERABILITY

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. Chapter XII, entitled "Garbage, Refuse, Solid Waste and Recycling", of the Code of Ordinances of the Township of Tilden is hereby amended by adding thereto the following new Part:

"Part 3

Municipal Waste and Recyclable Collection

Section 301. Title. This Ordinance shall be known and may be cited as the Municipal Waste and Recyclable Collection Ordinance.

Section 302. Definitions.

Aluminum Cans. Empty all-aluminum beverage and food containers.

Bimetallic Containers. Empty food or beverage containers consisting of steel and aluminum.

Commercial Establishment. Those properties used primarily for commercial or industrial purposes.

Corrugated Paper. Structure paper material with inner core shaped in rigid parallel furrows and ridges.

Designated Recyclable Materials. Materials found within the municipal waste streams that have been designated for collection under the Township's Recycling Collection Program.

Ferrous Containers. Empty steel or tin-coated steel food or beverage containers.

Glass Container. Bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products, pyrex, coffee mugs, drinking glasses or light bulbs.

High-Grade Office Paper. All white paper, bond paper and computer paper used in commercial, institutional and municipal establishments and in residences.

Institutional Establishment. Those facilities that house or serve groups of people such as hospitals, schools, day care centers and nursing homes.

Leaf Waste. Leaves from trees, bushes and other plants, garden residue, chipped shrubbery and tree trimmings, but not including grass clippings.

Mobile Home Park. A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two (2) or more mobile home lots.

Multi-Family Housing Properties. Any properties having six (6) or more dwelling units per structure.

Municipal Establishments. Public facilities operated by the municipality and other governmental and quasi-governmental authorities.

Municipal Waste. Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semi-solid or contained gaseous materials resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual waste or hazardous waste in Act 97 and Act 101 from a municipal, commercial or institutional water supply treatment plant,

wastewater treatment plant or air pollution control facility, but excluding source separated recyclables.

Municipality. The Township of Tilden, Berks County, Pennsylvania.

Municipal Waste Collector. Any collector registered pursuant to this Part and the regulations established by Resolution adopted hereunder, and pursuant to any Intermunicipal Agreement subsequently executed by the Township with Berks County or other municipalities.

Person. Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other 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, "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

Plastics. Empty PET plastic bottles (soda bottles) and HDPE plastics (laundry detergent bottles and/or plastic milk containers).

Public Agency. Any State agency or local public agency.

Recyclable Materials. Only those materials required to be recycled pursuant to the provisions of regulations established by Resolution adopted hereunder, as revised from time to time.

Resident. Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other 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, which owns, leases or occupies a property located in the Township used as a residence and containing five (5) or less dwelling units.

Source Separated Recyclables. Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

Storage. The containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any municipal waste in excess of one (1) year constitutes disposal.

Township. The Township of Tilden, Berks County, Pennsylvania.

Yard Waste. Leaves, grass clippings, harden residue, tree trimmings, chipped shrubbery and other vegetative material.

Section 303. Recyclable Materials. Designated recyclable materials for the Township Collection Program shall consist of such materials as aluminum and tin cans, mixed/high-grade office paper, glass bottles and jars, plastics-PET/HDPE-bottles and jars, cardboard/corrugated paper (excluding yard waste), and any other materials which may be designated by Resolution adopted, from time to time, by the Board of Supervisors of the Township.

Section 304. Separation of Recyclable Materials. All persons residing within the Township, whether in single-family or multi-family dwellings, townhouses, apartments, multi-family housing properties and mobile home parks, shall separate from other municipal waste generated at their dwellings all designated recyclable materials. These materials shall be stored by the Person until the Person delivers the recyclable materials to the Drop-Off Location designated by the Township. The Township, from time to time, hereafter by resolution, may designate other items to be recycled. Nothing in this Part, or subsequently promulgated regulations relating hereto, shall be deemed to impair the ownership of separated materials by the person or persons who generated them, unless and until such materials are delivered to the Drop-Off Location, for collection by the Township, or its agents, at which time ownership of said materials shall pass to the Township.

Section 305. Residential, Commercial, Municipal or Institutional Separation and Collection. All persons owning, leasing, operating, managing and/or otherwise controlling residential, commercial, municipal or institutional establishments, or community activities, shall separate high grade office paper, aluminum and corrugated paper. All persons shall contract with a Commonwealth of Pennsylvania licensed hauler and maintain receipts for a minimum of two years. Commercial, Municipal or Institutional facilities shall maintain Annual reports, in writing, of the number of tons of such material recycled, and shall be made to the Township by the 15th day of January of the following year.

Section 306. Drop-Off Location and Access. The Township shall establish a location for the recycling drop-off facility which shall be open at the convenience of the residents of the Township upon issuance of a Township issued access card.

Section 307. Exemption. Persons owning, leasing, operating or managing commercial, institutional or municipal establishments within the boundaries of the Township who have provided for, or who hereafter provide for, the recycling of

materials required to be recycled by the terms of this Part, or by the terms of the Municipal Waste Planning, Recycling and Waste Reduction Act of the Commonwealth, are hereby exempt from the terms of this Part. To be eligible for the foregoing exemption, a commercial, institutional or municipal establishment generating municipal waste must annually provide written documentation to the Township of the total number of tons recycled by the 15th day of January of each year.

Section 308. Ownership of Materials. Designated recyclable materials, from time to time, and the placement of the same at curb side, or other designated collection area, in accordance with the terms hereof or of subsequently adopted regulations, shall be and become the property of the Township, or its authorized or designated agent or agents. Prior thereto said designated recyclable materials shall remain the property of the persons who generated the same. It shall be a violation of the Part for any person not so authorized by the Township to act as its agent or agents for the collection of the designated recyclable materials.

Section 309. Removal by Licensed Haulers. Every person residing in the Township shall contract with an individual, entity or firm which is a licensed hauler by the Commonwealth of Pennsylvania to have all the municipal waste generated on the premises by any of the occupants of the premises removed and deposited in a permitted landfill not less than on a weekly basis.

Section 310. Municipal Waste/Recyclable Collectors.

(a) Registration. Every person desiring to engage in, continue to engage in or hereafter to begin to engage in the business of collecting, removing, transporting or hauling municipal waste and recyclable materials from any property in the Township shall first register with the Township. Such registration shall be for a period of one (1) year beginning January 1st of the year in which the registration occurs.

(b) Collection Equipment and Transportation Vehicles. The collection equipment and transportation vehicles used for the collection of municipal waste shall be of the closed metal body type with an automatic compactor unit. Said vehicles shall, at all times, be in good and proper mechanical condition and in compliance with the minimum safety and sanitary regulations of the Commonwealth of Pennsylvania. All haulers operating in the Township must be licensed in the Commonwealth of Pennsylvania under Act 90.

(c) Certificate of Insurance. No person shall be entitled to register with the Township as a collector unless such collector can show certificates of insurance covering public liability for both bodily injury and property damage, owners' and contractors' protective insurance, and automobile insurance with

respect to personal injuries and property damage. Such insurance shall be in amounts that shall be, from time to time, set forth by the Board of Supervisors of the Township by regulations established by Resolution adopted hereunder. Each and every policy of insurance herein mentioned which is required pursuant to the terms of this Part shall carry with it an endorsement to the effect that the insurance carrier will convey to the Township, by certified mail, written notice of any modifications, alterations or cancellation of any such policy or policies or the terms thereof. The above mentioned written notice shall be mailed to the Township at least thirty (30) days prior to the effective date of any such modification, alteration or cancellation.

(d) Collection Procedures. Municipal waste collectors shall not be required to collect municipal waste of any resident where it is obvious that recyclable materials have not been separated pursuant to this Part.

(e) Rates Schedule. Each municipal waste collector shall, annually, file with the Township a rate schedule showing the rates to be charged to its customers for the collection of municipal waste and recyclable materials. Such rate schedules shall not be changed by the municipal waste collector without first giving notice to the township at least thirty (30) days prior to the effective date of such change. Each municipal waste collector shall also file with the Township, annually, or upon changes of the routes, a map showing the areas in which it operates and a timetable setting forth the days of collection.

(f) Registration Fee. At the time of registration, the collector shall pay to the Township a registration fee in an amount and form as may be adopted, from time to time, by Resolution of the Board of Supervisors of the Township.

Section 311. Violations. It shall be unlawful for:

(a) Any persons, other than those persons authorized, to collect any designated recyclable which has been placed at the curb side or similar location for collection;

(b) Any person to violate or to cause or to assist in the violation of any provision of this Part;

(c) Any person to place, or cause to be placed, any materials other than a designated recyclable in recycling containers;

(d) Any person to hinder, to obstruct, to prevent or to interfere with the Township or any other authorized person in the performance of any duty under this Part.

Any person who shall violate the provisions of this Part shall receive an official written notice of non-compliance from the Township for the first (1st) and second (2nd) offenses. Thereafter, all such violations shall be subject to penalties hereinafter provided.

Section 312. Rules and Regulations. The collection of municipal waste and recyclable materials by municipal waste collectors shall be made in compliance with the regulations to be adopted by the Board of Supervisors of the Township to carry out the intent and purpose of this Part. Such rules and regulations shall be approved by Resolution of the Board of Supervisors of the Township; and when so approved, shall have the same force and effect as the provisions of this Part. Said rules and regulations may be amended, modified or replaced by Resolution of the Board of Supervisors of the Township.

Section 313. Penalties. Any person who violates any provision of this Part, or of the regulations adopted hereunder, or any person who knowingly commits, takes part or assists in any such violation, shall, upon conviction thereof before a District Justice, have prescribed by the Board of Supervisors criminal fines of not less than \$100.00 for a first offense, \$250.00 for a second offense and \$500.00 for a third and subsequent offense, nor more than \$1,000.00 per violation (excluding the first two written notices of non-compliance), and may have prescribed imprisonment to the extent allowed by law for the punishment of summary offenses. Each day that a violation of this Part continues after notice shall constitute a separate offense punishable by a like fine or penalty. In addition to said penalty, the Township may institute any appropriate action or proceeding, whether by legal process or otherwise, to prevent any illegal act, conduct, business or use on or about such premises subject to this Part.

Section 314. Severability. Should any clause, section or part of this Part be held unconstitutional, illegal or unenforceable by any Court of competent jurisdiction, such invalidity shall not affect, impair, nullify or otherwise prevent the enforcement of the remainder of the Part. It is hereby declared that such clauses, sections or parts as are legal would have been enacted independently of the invalid portion had the invalidity of such clause, section or part be known, and it is the intention of the Township that such remainder shall be and remain in full force and effect."

SECTION 2. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 3. This Ordinance shall become effective in accordance with law.

SECTION 4. The Code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of the code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, upon adoption.

DULY ENACTED AND ORDAINED this 1st day of November, 2008.

TOWNSHIP OF TILDEN
BOARD OF SUPERVISORS

Attest:

Cheryl A. Haus
Secretary

Russell H. Neely
Judy E. Romig