

**TOWNSHIP OF WORCESTER
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE 2021-286

**AN ORDINANCE REPEALING AND REPLACING VARIOUS REGULATIONS
REGARDING RECYCLABLE MATERIALS MANAGEMENT
AND ESTABLISHING REGULATIONS AS TO OPEN FIRES AND BURNING**

WHEREAS, all property owners in Worcester Township ("Township"), shall participate in the collection and proper disposal of municipal waste; and,

WHEREAS, the Pennsylvania Municipal Waste Planning Recycling and Waste Reduction Act 101 requires municipalities to recycle; and,

WHEREAS, the Pennsylvania Act 140 of 2006 requires municipalities to meet performance requirements enacted in Act 101; and,

NOW, THEREFORE, the Board of Supervisors do hereby ordain and enact as follows:

SECTION 1

1. Chapter 116, Recyclable Materials Management, Section 116-4 through Section 116-17 shall be repealed in their entirety and replaced with the following Section 116-4 through Section 116-18.

§ 116-4 Program responsibilities of Township.

A. In accordance with the responsibilities set forth in this chapter, the Township is authorized to establish rules and regulations related to the separation, collection, processing and marketing of recyclable materials and to enforce all such rules and regulations. The Township shall determine the recyclable materials to be separated by a person or entity and collected by the municipal waste collector. The Township may modify the list of recyclable materials to be separated by a person or entity and collected by the municipal waste collector by means of a resolution.

B. The Township shall, in conjunction with the municipal waste collectors, be responsible for establishing an education program and together shall conduct and maintain a comprehensive public information program as follows:

(1) The Township shall include articles and information on recycling requirements and activities within regular newsletters or mailings to residents and businesses in the community.

(2) The municipal waste collectors shall, at least 30 days prior to the start of the recycling program and at least every six months thereafter, deliver or include with their invoices sent to customers, an information sheet on recycling. At the request of the municipal waste collectors, the Township will, as a service to the municipal waste collectors, provide facts relative to the requirements and operation of the recycling program that can be utilized in the aforementioned information sheet.

C. The municipal waste collectors shall be responsible for obtaining all weight and volume quantity data. Said data shall be supplied to the Township on a quarterly basis and fourth quarter data shall be supplied to the Township by January 15 for the preceding year, so that the Township

may submit reports in accordance with Act 101 and other applicable laws and submit applications for recycling performance grants.

D. Each person or entity in the Township, as required by Act 101, shall be responsible for complying with the requirements of this chapter for the separation of recyclable materials. This shall include tenants and lessees occupying rented and non-owned property.

E. Owners, landlords or agents of any leased or rented property, other than single-family type homes or single-tenant-occupied property, shall be responsible for publicly posting educational information provided by the Township and/or municipal waste collectors, providing appropriate recyclable material collection containers and providing for pickup of such containers in accordance with this chapter. Owners, landlords or agents of a leased or rented property occupied by a single tenant may assign such responsibility to the tenant or lessee occupying a property, in writing or through a lease or rental agreement.

F. In accordance with Section 1501(c)(1)(iii) of Act 101, the Township shall exempt persons occupying commercial, institutional and municipal establishments from the requirements of this chapter if they have otherwise provided for the recycling of materials designated by this chapter. To be eligible for this exemption, the commercial, institutional or municipal waste generator must provide, on a quarterly basis, written documentation to the Township of the total quantity of each material recycled. Fourth quarter data shall be supplied to the Township by January 15 for the preceding year.

§116-5 Responsibilities of Residents and Businesses

A. Residents of the township shall have trash and recycling services, that allows for the legal disposal of municipal waste or dispose of waste in accordance with Montgomery County's Waste Plan.

B. Each person or entity in the Township, must be responsible for complying with the requirements of this chapter for the separation of recyclable materials. This shall include tenants and lessees occupying any rented or non-owned property.

C. Owners, landlords or agents of any leased or rented property, other than single-family type homes or single-tenant-occupied property, shall be responsible for publicly posting educational information provided by the Township and/or municipal waste collectors, providing appropriate recyclable material collection containers and providing for pickup of such containers in accordance with this chapter. Owners, landlords or agents of a leased or rented property occupied by a single tenant may assign such responsibility to the tenant or lessee occupying a property, in writing or through a lease or rental agreement.

D. In accordance with §1501(c)(1)(iii) of Act 101, persons are required to separate high grade office paper, aluminum, corrugated paper and leaf waste and other materials deemed appropriate, generated at commercial, municipal, or institutional establishments and from community activities. In accordance with §1501(c)(1)(iii) of Act 101, exempt persons occupying commercial, institutional and municipal establishments from the requirements of this chapter if they have otherwise provided for the recycling of materials designated by this chapter. To be eligible for this exemption, the commercial, institutional or municipal waste generator must provide, on a quarterly basis, written documentation to the Township of the total quantity of each material recycled. Fourth quarter data shall be supplied to the Township by January 15, for the preceding year.

E. Residents and businesses shall be permitted to utilize compost piles for yard waste and leaves. A compost pile shall comply with Article XXIV, §150-177, Accessory Uses and Structures.

§ 116-6 Responsibilities of municipal waste collectors.

A. The collection equipment and transportation vehicles used for the collection of municipal waste within the Township shall be of the closed-body type with an automatic compactor unit and said collection equipment and transportation vehicles shall be labeled to indicate the name of the municipal waste collector and shall further indicate that the vehicle is transporting municipal waste or recyclable materials. 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 such vehicles shall be specifically designed to prevent leakage of any liquid or fluids. Other type vehicles may be used only for the collection of recyclable materials and white goods, provided such items are separately collected in accordance with regulations established by the Board of Supervisors of the Township by a resolution. The municipal waste and recyclables so collected shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vermin or creation of other nuisances. The collection equipment and transportation vehicles shall be kept in a clean and sanitary condition.

B. Each person or entity interested in becoming a municipal waste collector must provide 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 at the request of the Township. Such insurance shall be in amounts set forth in § 128-5 of the Solid Waste Management Ordinance.[1]

[1] Editor's Note: See Ch. 128, Solid Waste Management.

C. Each municipal waste collector shall, on the first day of each calendar quarter, file a rate schedule with the Township showing the rates to be charged to its customers for the collection of municipal waste and recyclable materials. Such rate schedule shall not be changed by the municipal waste collector without first giving notice to the Township at least 30 days prior to the effective date of such change. Each municipal waste collector shall file a map with the Township on the first day of each calendar year, or upon changes of its routes, showing the areas of the Township in which it operates and a timetable setting forth the days of collection. Collections of municipal waste and recyclable materials by municipal waste collectors shall take place solely between the hours of 6:30 a.m. and 10:00 p.m.

Each municipal waste collector shall, on the first day of each calendar quarter, file a rate schedule with the Township showing the rates to be charged to its customers for the collection of municipal waste and recyclable materials. Such rate schedule shall not be changed by the municipal waste collector without first giving notice to the Township at least 30 days prior to the effective date of such change. Each municipal waste collector shall file a map with the Township on the first day of each calendar year, or upon changes of its routes, showing the areas of the Township in which, it operates and a timetable setting forth the days of collection. Collections of municipal waste and recyclable materials by municipal waste collectors shall take place solely between the hours set forth by the Board of Supervisors by resolution, as described in §128-8.

D. The collector shall be responsible for the bulk ordering and purchasing of recycling containers for residents. One recycling container shall be provided for each residential unit (with the possible exception of one container to serve two or more multifamily residential units) in the Township.

Residents may use recycling containers other than those obtained from the collector, provided said recycling containers are appropriately labeled or otherwise identified as containers for recyclable materials.

E. Each municipal waste collector shall be responsible for complying with the requirements of this chapter for the collection, processing and marketing of recyclable materials.

F. Municipal waste collectors shall be responsible for coordinating the collection of leaf and yard waste, how the waste shall be packaged, and shall properly dispose of the waste at a location approved by the Pennsylvania Department of Environmental Protection.

§ 116-7 Delegation of program responsibilities by Township.

Nothing in this chapter shall prohibit the Township from assigning a portion or all of its responsibilities under Act 101 and this chapter to another entity. Such assignment of responsibility will be accomplished in accordance with Section 304(c) of Act 101 and would require the Township to enter into a written agreement with the entity accepting such responsibilities. However, under no circumstances will the Township relinquish its right to select the methodology for conducting recycling, municipal waste collector subscription service to individual customers, franchising or bidding of municipal waste collector services on a partial or community-wide basis, or municipal waste collector services provided by a municipality.

§ 116-8 Designation of recyclable materials.

A. Every resident of the Township shall be required to separate, at a minimum, newspaper, aluminum, clear glass, colored glass, bimetal cans and plastic products identified with either a No. 1 or a No. 2 for recycling. Commercial, municipal and institutional establishments shall be required to separate, at a minimum, high-grade office paper and corrugated paper from municipal waste in addition to aluminum. The Township may require that residents and commercial, municipal and institutional establishments separate other recyclable materials by regulations established by resolution of the Board of Supervisors.

B. Every person or entity must separate household hazardous waste and leaf waste from the recyclable materials and other municipal waste. It is the responsibility of a person or entity to dispose of household hazardous waste in accordance with applicable law. Provisions for the collection or use of leaf waste shall be the responsibility of the municipal waste collectors as more fully set forth in § 116-12.

C. All occupants of single-family homes, townhomes, rowhouse-type residences and all other dwellings where individual municipal waste collection occurs shall maintain a separate container of the type specified or provided by the Township or municipal waste collector to collect all designated recyclable materials in a commingled or modified commingled (e.g., different materials separated into brown paper bags and placed in the container) fashion, as established by the municipal waste collector. No municipal waste or recyclable material container shall be placed at the curb or in the front yard of any resident's property except during the period beginning at 6:00 p.m. on the evening prior to the day of scheduled collection, and the empty container shall be removed by 12:00 midnight on the day of scheduled collection. Newspapers may also be placed in brown paper, grocery store bags or bundled and tied, both across and lengthwise, with rope or cord and kept dry prior to collection, and placed at curbside with the recycling container. No such municipal waste containers or recyclable material containers, including bundles of newspapers,

(other than containers supplied by municipal waste collectors) shall weigh more than 50 pounds, and containers or bundles shall not be placed in the cartway. Municipal waste placed at the curb or street line for collection must be in closed, waterproof containers.

D. Owners or landlords of any multifamily residential units, such as apartments or condominiums where individual residential refuse collection does not occur, shall be responsible for providing suitable containers or dumpsters for recyclable materials. Such containers or dumpsters shall be provided through arrangements with a municipal waste collector, and source-separated or commingled recyclable material containers or dumpsters may be utilized. The containers or dumpsters must be provided at easily accessible locations, and written instructions must be provided to the occupants concerning the use and availability of such containers or dumpsters. Owners or landlords of multifamily residential units who comply with the requirements of this section shall not be liable for the noncompliance of any person or entity occupying their buildings as such noncompliance relates to separation of materials. All tenants or lessees of multifamily residential units shall be responsible for separating recyclable materials and placing them in the containers or dumpsters provided for such purposes.

E. Owners or landlords of any institutional, commercial, business or industrial establishment shall be required to meet the same requirements in Subsection D hereof unless such responsibilities are specifically assigned, in writing, to the tenant or lessee of such property. Such assignment may only occur, however, where a single tenant occupies the entire leased or rented property.

F. Collection of leaf and yard waste shall be required to meet the same requirements set forth in §116-13.

§ 116-9 Collection of recyclable materials.

A. The municipal waste collector shall, in providing refuse collection and disposal services to a single-family residential home, also provide for the collection of recyclable materials. Where once or twice a week municipal waste collection is provided, the municipal waste collector must provide at least once a week recyclable material collection. Customers using once a month municipal waste collection must have recyclable materials collected at least once a month. Where a customer's designated day for the collection of recyclable materials falls on a holiday, the municipal waste collector shall collect recyclable materials on another day and shall notify those customers affected of that change. On January 30 of each year, the municipal waste collector shall provide proof to the Township that the collection of recyclable materials by it can be undertaken in accordance with the requirements of this chapter.

B. The collection of recyclable materials for all establishments, other than single-family residential homes, shall be on an as-required basis.

The collection of recyclable materials for all establishments, other than single-family residential homes, shall be on a monthly basis, at a minimum.

C. No municipal waste collector shall be permitted to allow recycling containers or dumpsters to fill beyond capacity and shall schedule the frequency of such collection accordingly.

§ 116-10 Processing and marketing of recyclable materials.

A. The municipal waste collector shall be responsible for the processing and marketing of the recyclable materials. Such activities may be conducted by the municipal waste collector or any

agent thereof or a private entity conducting such business, a nonprofit entity able to undertake such effort or any governmentally owned or operated facility capable of such functions.

B. The municipal waste collector shall, prior to initiating processing and marketing activities, provide the Township with a summary of its proposed efforts, including the location of the facility(ies) to which the recyclable materials will be delivered, to the maximum extent possible. Any such facility(ies) shall be appropriately licensed and permitted. Updates shall be provided as changes are made.

C. The municipal waste collector shall, as part of its recording activities, provide a detailed listing of where the recyclable materials are sold or deposited and the weights of each of the recyclable materials so delivered. The municipal waste collector shall, upon request, provide the Township with copies of applicable licenses or permits of the ultimate facility(ies) to which the recyclable materials will be delivered.

§ 116-11 Ownership of recyclable materials and municipal waste.

A. All recyclable materials and municipal waste placed at curbside for collection or in any container or dumpster designated for recyclable materials shall become the property of the municipal waste collector providing the service, except as outlined in § 116-11.

All recyclable materials and municipal waste placed at curbside for collection or in any container or dumpster designated for recyclable materials shall become the property of the municipal waste collector providing the service, except as outlined in §116-10.

B. It shall be a violation of this chapter for any person or entity, other than the municipal waste collector providing the service, to collect or remove any of the recyclable materials from their designated collection location, except as outlined in § 116-11. Each unauthorized collection from one or more designated locations on one calendar day in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

§ 116-12 Alternate recycling activities.

A. Any person or entity may utilize alternative recycling methods, other than collection by a municipal waste collector, to accomplish the purpose of reutilizing recyclable materials. Recyclable materials may be donated or sold to any person or entity, whether operating for profit or not, provided that the recycler shall not utilize alternate recycling methods without prior written permission from the Township. Such materials must be delivered to the alternate recycling site or arrangements made with the alternate collector to pick up the recyclable materials at a time that will not interfere with the operations of the municipal waste collector. Each person or entity accepting recycled materials under this section must provide quarterly written documentation to the Township of the total quantity of each material recycled.

B. The Township shall permit an alternative recycling program to be developed in accordance with Section 1501(h) of Act 101 if the requirements of that section can be complied with. The Township shall, before implementation of the program, review and approve the program. The municipal waste collector conducting the program must provide quarterly written documentation to the Township of the total quantity of each material recycled.

§ 116-13 Handling of leaf waste.

[Amended 11-21-2007 by Ord. No. 221]

A. The Township hereby authorizes establishment of a program for curbside collection of leaf waste at least once during the spring and at least once during the fall of each year. In the event leaf waste is not collected curbside at least once a month, the leaf waste program shall be augmented by designation of a drop-off compost facility for haulers and residents to utilize which must be open at least once per month for leaf waste which is generated between scheduled collections.

The Township hereby authorizes establishment of a program for curbside collection of leaf waste at least once per month.

B. Leaf waste collection shall be conducted by the Township or private municipal waste collectors in accordance with regulations of DEP. All leaf waste shall be disposed of in a DEP-permitted compost facility in accordance with all applicable state guidelines.

Leaf waste collection shall be conducted by a private municipal waste collector. All leaf waste shall be disposed at a compost facility approved by the Pennsylvania Department of Environmental Protection, and in accordance with all applicable state guidelines.

C. All private municipal waste collectors shall provide the Township with the name and address of the facility(ies) where the leaf waste will be disposed and report the quantity in tons or cubic yards. Leaf waste shall not be commingled with any other municipal solid waste. The disposal of leaf waste at a sanitary landfill, waste-to-energy facility or any other non-composting facility is strictly prohibited.

D. The methodology for separating and collecting leaf waste shall be established by the Township and implemented by the Township and communicated to participating private municipal waste collectors. The leaf waste collection guidelines set forth in this section are intended to be general in nature. The actual leaf waste collection and education program shall be established in more detail by the Township and is subject to modification as needed from time to time, provided any modifications to the program comply with this section and the most recent regulations of DEP.

The methodology for separating and collecting leaf waste shall be established by the Township and implemented by the Township and communicated to participating private municipal waste collectors and residents. The leaf waste collection guidelines set forth in this section are intended to be general in nature. The actual leaf waste collection and education program shall be established in more detail by the Township and is subject to modification as needed from time to time, provided any modifications to the program comply with this section and the most recent requirements of the Pennsylvania Department of Environmental Protection.

E. Leaf waste shall not be left at curbside more than 24 hours prior to collection and shall not be left in a form which obstructs the flow of traffic or affects the performance of drainage facilities or catch basins.

§ 116-14 Recordkeeping.

A. All municipal waste collectors shall keep records of the quantities of recyclable materials collected in the Township. The records shall include the weight of the total quantities of recyclable materials and total quantities of municipal waste and an estimate of the corresponding volume of material for both recyclable materials and municipal waste. Estimates of the individual components comprising the commingled recyclable materials shall also be provided. Written reports shall be provided to the Township on reporting forms provided by the Township and shall

include the name and location of the processing center and/or recyclable materials dealer and the weights of each of the recyclable materials delivered to such center and/or dealer and shall be submitted in accordance with the time schedules established in this chapter.

B. Leaf waste quantities shall be recorded by the municipal waste collector collecting such materials. Such quantities may be in the form of estimates on either a cubic yard or tonnage basis collected, and written documentation of the total quantity of leaf waste collected must be provided to the Township by January 31 of each year for materials collected in the preceding calendar year.

C. Except as noted in § 116-11A and B and Subsection B hereof, all records shall be provided to the Township on a quarterly basis in typewritten tabular form and shall be due within 30 days after the end of each calendar quarter.

§ 116-15 Enforcement and violations and penalties.

A. Any person or entity who shall violate the provisions outlined herein regarding the separation of recyclable materials shall receive an official written warning of noncompliance from the Township for the first offense. Thereafter, all such violators of the provisions of this chapter shall, upon being adjudged guilty of violating this chapter before any Justice of the Peace having jurisdiction within said Township, be sentenced as provided in Chapter 1, Article II, General Penalty.

B. Any person or entity who shall violate the provisions outlined herein regarding the unauthorized collection of recyclable materials shall be liable for payment of a civil fine in accordance with regulations established by the Board of Supervisors of the Township by resolution.

C. No municipal waste collector shall knowingly collect municipal waste which contains recyclable materials or leaf waste. The municipal waste collector shall provide a person or entity violating the provisions contained herein regarding the separation of recyclable materials with written notice for the first offense and also provide the Township with the same written notice. Any municipal waste collector who shall knowingly violate the provisions of this section and collect municipal waste containing recyclable materials or leaf waste from a person or entity who has previously been notified by the Township and/or a municipal waste collector of noncompliance shall receive an official warning for the first offense. The municipal waste collector shall, for subsequent offenses within a two-year period of the warning, be liable to a civil fine in accordance with regulations established by the Board of Supervisors of the Township by resolution.

No municipal waste collector shall knowingly collect municipal waste which contains recyclable materials or leaf waste. Any municipal waste collector who shall knowingly violate the provisions of this section and collect municipal waste containing recyclable materials or leaf waste from a person or entity who has previously been notified by the Township of noncompliance shall receive an official warning for the first offense. The municipal waste collector shall, for subsequent offenses within a two-year period of the warning, be liable to a civil fine in accordance with regulations established by the Board of Supervisors of the Township by resolution.

§ 116-16 Interpretation.

This chapter shall be construed under the laws of the Commonwealth.

§ 116-17 Modifications.

The Township may, from time to time, modify the regulations adopted in accordance with this chapter or make modifications to this chapter.

§ 116-18 Implementation by waste collectors.

Municipal waste collectors shall take the necessary steps to implement the collection of recyclable materials upon the effective date of this chapter.

SECTION II

1. Chapter 128, Solid Waste Management, §128-14 shall be deleted in its entirety and replaced with the following:

In addition to the penalty provided for in § 128-16, any continued violation of any of the provisions of this chapter which constitutes a nuisance in fact or which, in the opinion of the Board of Supervisors, constitutes a nuisance, may be abated by a proceeding against the violators in a court of equity or by seeking other relief available to the municipality, whether in equity or at law.

2. Chapter 128, Solid Waste Management, §128-15, shall be deleted in its entirety and replaced with the following.

Chapter 128, §128-15, Prohibition of Open Fires and Burning.

a) It shall be unlawful to burn, ignite, incinerate, maintain or permit to bury any materials whatsoever, of whatever nature, including solid waste, recyclable materials, leaves, grass, weeds, and hedge and tree trimmings.

b) Exceptions to allow open fire and burning:

- i. Burning shall be permitted for fire-fighting training by Township-designated fire-fighting organizations conditioned on prior approval of the Worcester Township Fire Marshal.
- ii. Burning shall be permitted for recreational and entertainment purposes, such as bonfires and camp-fires, conditioned on prior approval of the Worcester Township Fire Marshal. Fire pits, fire bowls, and chimineas may be used without Fire Marshal approval provided these are used in accordance with the manufacturer's safety guidelines.
- iii. When approved by a government agency only, burning is permitted for (a) the prevention and control of disease or pests, (2) the conservation and management of unique and natural areas, (3) the prevention or abatement of a fire hazard, (4) a management technique for preventing wildfires, scientific research, or vegetation management, or (5) for agricultural uses and purposes as permitted by State Law.

3. Chapter 128, Recyclable Materials Management, §128-16 shall be added as follows:

§ 128-16 Violations and penalties.

Any person or entity shall, upon being adjudged guilty of violating this chapter before any Justice of the Peace having jurisdiction within Worcester Township, be sentenced as provided in Chapter 1, Article II, General Penalty.


SECTION III

1. In the event that any section, subsection or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this ordinance. The invalidity of section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts. It is hereby declared to be the intention of the Township that this Ordinance would have been adopted had such invalid section, clause, sentence, or provision not been included therein.
2. To the extent this Ordinance is inconsistent with the Code of Worcester Township, the provisions of this Ordinance shall take precedence. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.
3. The failure of the Township to enforce any provision of this ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.
4. This Ordinance shall become effective immediately upon enactment.

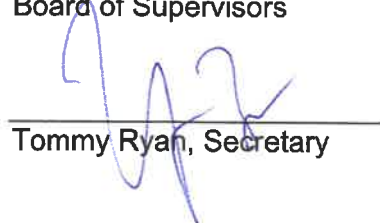
ENACTED AND ORDAINED by the supervisors of the Township of Worcester, Montgomery County, Pennsylvania on this 18th day of August, 2021.

FOR WORCESTER TOWNSHIP

BY:


Richard DeLello, Chair
Board of Supervisors

Attest:


Tommy Ryan, Secretary