

EAST FALLOWFIELD TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2009-05

AN ORDINANCE REENACTING AND AMENDING THE EAST FALLOWFIELD TOWNSHIP SOLID WASTE ORDINANCE REGULATING STORAGE AND DISPOSAL OF TRASH AND RECYCLABLE MATERIALS PURSUANT TO THE SECOND CLASS TOWNSHIP CODE. EFFECTIVE FIVE DAYS FROM ENACTMENT.

AND NOW, this 24th day of November, 2009, the Board of Supervisors of East Fallowfield Township hereby enacts and ordains as follows:

Section 1. Legislative Purpose and Intent.

1. It is the practice of East Fallowfield Township to contract periodically by public bid for the collection and disposal of household waste materials generated by residents of the Township.
2. Landfill space is at a premium and proper environmental management of the trash disposal process must be conserved or the future cost of waste management will be greatly increased and the environment harmed.
3. Recycling and other sound ecological practices will ultimately result in a savings to the residents of the Township and will contribute to a better environment in the future.
4. Therefore, it is in the interest of the public health and safety to preserve and protect the environment by requiring the recycling of certain waste products and to establish certain minimum standards for the storage and disposal of waste materials generated within the Township.
5. Under the provisions of §2101 *et seq.*, of the Second Class Township Code, 53 P.S. §67101 *et seq.*, the Township is authorized to enact and enforce regulations for the storage and disposal of waste materials and the regulations herein authorized and adopted are so promulgated under and by virtue of that authority.

Section 2. Definitions.

Except where the context clearly otherwise requires, the following words and phrases shall have the meanings herein set forth.

Dwelling unit - a building, or part thereof, where one or more persons reside as a single housekeeping unit and having a common kitchen, common bathroom facilities, common living areas and a common entrance, including, without limitation, mobile homes.

Designated trash storage area - an area serving a single residential unit or non-residential unit, designated, constructed, or designed to serve as the storage area or collection area for trash generated solely from that residential unit or non-residential unit and the activities associated with such use. The term "designated trash storage area" shall not include any landfill, junkyard, recycling center, bulk transfer station, nor any area or facility receiving for storage, transfer, abandonment, burial, treatment, sorting, or disposal, any trash generated from any residential unit or non-residential unit not located upon the same lot.

Mixed use building – a building containing both non-residential and residential units.

Non-residential unit - any property, building and/or unit of a building used for commercial, institutional or industrial purposes, including, without limitation, a building that contains more than four (4) individual dwelling units.

Residential unit - a dwelling unit located on a lot or in a building, including, without limitation, dwelling units that are part of a mixed use building that contains no more than four (4) individual dwelling units.

Trash - any materials, be they solid, liquid, or contained gaseous material intended to be discarded and for which the generator thereof claims no utilitarian or economic benefit, use, possession, or ownership. Any materials found in a designated trash storage area or identified trash container, regardless of how, why or by whom placed there shall be conclusively presumed to be trash.

Trash, bulk - any trash which by reason of its size, weight, bulk, or composition cannot be contained and transported in the ordinary course of established collection procedures with the equipment dedicated for such purposes and which for that reason will not fit into containers conforming to the standards set forth in Section 3 of this Ordinance.

Trash, hazardous - any trash which by reason of its composition or other properties, has been designated by the US Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, or any other Federal, State, or local governmental agency, entity, or authority, as requiring special procedures, containers, or permits for storage or disposal. Such trash includes, by way of illustration but not limitation, infectious waste, nuclear waste, sanitary waste, flammables, explosives, combustibles, and toxic waste.

Trash, recyclable - any trash which by reason of its composition or other properties, has been designated by a duly adopted resolution of the Board of Supervisors of East Fallowfield Township as recyclable trash.

Trash, residual - any trash other than bulk trash, hazardous trash, or recyclable trash.

Section 3. Storage and Collection.

A. General Provisions.

1. All trash shall be stored in water-tight vermin-proof containers of sufficient strength to prevent access to the trash by animals, children, or others not collecting or disposing of the same. All trash shall be stored as to prevent it from being carried or deposited on lands of others or on public ways by reason of wind, stormwater, or acts of nature, or similar causes. All combustibles and flammables shall be stored in a manner to prevent fire or explosion or the spreading of toxic or noxious fumes. Combustibles and flammables shall not be considered as recyclable trash.
2. No person shall place trash containers or bulk trash at curbside or in the front yard of any lot, except for the period beginning at 6 p.m. on the day prior to the day designated for collection, and ending at 6 p.m. of the day designated for collection. As used in this Ordinance, the term "front yard" shall mean the area between the street line and the first building on the lot.

B. Bulk Trash.

Dates for bulk trash pickup shall be established by the Board of Supervisors and notice given to the residents in such manner as the Board shall by resolution determine from time to time. Bulk trash shall be placed at curbside by the occupant or owner of each location served by the collector of residual trash. If, for any reason, the bulk trash is not collected on the day set for collection, the owner and/or the occupant shall remove the bulk trash from curbside and store the same at an appropriate location until the next established bulk trash collection date.

C. Hazardous Trash.

All hazardous waste shall be separately stored on the property and collected by a collector licensed by all regulatory agencies charged with the regulation and licensing of such materials. All containers for storage of hazardous trash shall be conspicuously labeled as containing "Hazardous Material" or similar designation including the nature of the hazard involved. All containers for such materials shall be of a type, size, and construction required by the applicable regulatory agency for such storage and transportation. Under no circumstances shall hazardous trash be stored, mixed, or blended with residual or recyclable trash or left for collection by the residual, recyclable or bulk trash collector. Until collection, hazardous trash shall be stored in areas secure from children and others not trained to handle such trash.

D. Recyclable Trash.

The Board of Supervisors shall by resolution establish and from time to time revise a list of various types of trash to be separately collected for recycling. Notice shall be given in such manner as the Board may direct. Upon designating a type of trash as recyclable trash, and giving of the requisite notice, that type of trash shall thereafter be recyclable trash and shall be stored, collected, processed, and disposed of in and only in accordance with the regulations established by the Board of Supervisors for recyclable trash and not otherwise. Recyclable trash shall not be mixed or blended with or left for collection as residual trash. Each type of recyclable trash shall be stored in a separate container provided by the Township and shall be placed at curbside for collection next to the containers for residual trash on the days designated for recyclable trash collection. All recyclable trash shall be separated at the residential unit where generated. All recyclable trash shall be segregated from other categories of trash and shall be cleaned before placement in designated receptacles. As a particular class of trash is designated as recyclable trash, the resolution so designating shall include, without limitation, a definition thereof, the method of storage if special methods are required, cleaning, a label removal if required, and any special storage, handling or disposal instructions.

E. Residual Trash.

Residential units shall store their residual trash in portable containers. Non-residential units shall store their residual trash in dumpsters or similar containers and shall place said dumpsters or similar containers at a location accessible to the collector. All designated trash storage areas shall be kept clean and shall be screened from view at all street lines and all lot lines of adjacent residential uses.

Section 4. Collection Fees; Billing and Payment; Penalties; Appeals

A. Collection Fees.

The Board of Supervisors shall establish by resolution an annual fee for collection of trash, except hazardous trash, from residential units within East Fallowfield Township. This rate may be modified, increased, reduced or otherwise amended from time to time by resolution of the Board of Supervisors. The charge for contract pickup for non-residential units shall be negotiated separately between the owner or occupier and any trash collector; the cost of which is the sole responsibility of the owner or occupier.

B. Billing and Payment.

1. The Township shall issue annual trash collection invoices to the owner of each residential unit to the name and mailing address of the residential unit set forth in property tax assessment records for Chester County. Any residential unit owner wishing to receive notice of the annual fee at an

alternative mailing address shall submit a written request to the Township no later than the last business day in November of the year preceding the next invoice.

2. The owner of each residential unit in the Township shall be liable to pay the annual fee for each such residential unit to the Township. Payment of the annual fee shall at all times remain the responsibility of the owner of the residential unit, although the Township will accept payment by an occupant or lessee on behalf of the owner solely as a convenience to the owner.
3. Payment of the annual fee to the Township for each residential unit shall be due and owing whether or not the generator or occupant of the residential unit actually uses the residential trash collection service. Only vacant lots and/or lots which do not qualify as a residential unit are exempt.

C. Penalties.

1. Annual fees for residential trash collection shall be subject to a 5% penalty if not paid on or before the 30th day after the due date.
2. A service charge of 1.5% per month of the unpaid balance will be added to invoices outstanding over 30 days.
3. Annual fees for residential trash collection, together with all penalties and fees thereon, not paid on or before the 30th day after the due date shall be deemed to be delinquent. The failure to pay such fees shall be a violation of this ordinance, and subject the violator to the provisions of Sections 7 and 8 of this ordinance.
4. It shall be the duty of the Township to proceed to collect such delinquent charges, together with penalties, fees, and accrued costs accrued, including attorney's fees, either by action at law or by filing a lien or liens for the same in the office of the Prothonotary of the Court of Common Pleas of Chester County, Pennsylvania, and such liens, together with penalty, costs, and interest, including attorney's fees, shall be filed and collected in accordance with the law.

D. Appeals.

1. Any owner or occupier with the written permission of the owner who wishes to challenge the annual fee or any designation by the Township regarding the type of property and/or trash shall do so in accordance with this Ordinance set forth below no later than thirty (30) days from the mailing date of the annual fee invoice. Notice of an appeal shall be

delivered to the Board of Supervisors by US Mail, postage prepaid, or by acceptance of service by an authorized representative at the Township building located at 2264 Strasburg Road, East Fallowfield, PA 19320. Each appeal shall include the following:

- a. The name and address of the owner.
 - b. The reason for the appeal including a description of the property, use and/or trash at issue.
 - c. A complete description of any circumstances believed to be relevant to the Township's determination of the annual fee or designation.
2. The Township shall, no later than sixty (60) days from receipt of the notice of appeal, make a determination on the appeal or issue a request for further information or documentation in support of the appeal. If the Township requests further information or documentation, the Township shall, no later than sixty (60) days from receipt of the requested information or documentation, make a determination on the appeal.
 3. Any person aggrieved by a final determination by the Township who has a direct interest in such determination shall have the right to appeal to the Chester County Court of Common Pleas in accordance with the Local Agency Appeal Law, 2 Pa.C.S.A. §105.

Section 5. General Regulations.

- A. No trash shall be thrown, discarded, deposited, carried, or left for collection on any lands or in any place other than the location at which it is generated and/or its designated trash storage area. Provided, however, nothing contained in this Ordinance shall be construed to prevent the disposition of trash with the consent of the owner of the receiving lands at a lawful landfill, recycling center, or junkyard.
- B. All trash shall be segregated into its appropriate definitional classification and separately stored and maintained in its designated trash storage area until collection.
- C. All recyclable trash shall be cleaned of all residual and hazardous trash prior to being deposited into disposal containers.
- D. The owner of each residential unit whether or not the generator or occupant of the residential unit shall be primarily responsible for compliance with the provisions of this Ordinance and shall be held liable for any violation occurring on the owner's property. Along with the owner of the residential unit, the generator

and/or occupant of the dwelling unit other than the owner may also be held jointly and severally responsible for compliance and jointly and severally liable for any violation.

Section 6. Regulations.

The Board of Supervisors may from time to time promulgate and adopt by resolution regulations designed to further carry out the intent and purposes of this Ordinance and its provisions. When so adopted, a violation of those regulations so promulgated shall be a violation of this Ordinance, and punishable as such. The Board of Supervisors may by resolution designate and appoint one or more persons to administer and enforce this Ordinance and delegate to such persons the duties and authority to act on behalf of the Township consistent with such delegation and assignment.

Section 7. Penalties.

Any person who violates any provision of this Ordinance or any provision of a regulation contained in any resolution promulgated pursuant hereto shall, upon conviction in a summary proceeding before a magisterial district judge be sentenced to pay a fine not exceeding \$1,000 plus costs of prosecution and in default of payment thereof shall be sentenced to a term of not more than 30 days in the Chester County Prison. As used in this Ordinance, the term "person" shall mean (A) a natural person, (B) if the violator is a corporation or similar legal entity the term shall include all of its officers, directors, and any agent, servant; or employee in responsible charge of the premises or any part thereof and any employee not an officer or manager to the extent that persons actually participated in or contributed to the violation, (C) if a partnership, the term shall include the partners thereof as well as any person holding a position comparable to any of the positions or offices enumerated in (B) above.

Section 8. Other Remedies.

In addition to the provisions of Section 7 above, and not in substitution thereof, the violation of this Ordinance is declared to be a public nuisance and a threat to the public health and safety. The Board of Supervisors finds that the penal provisions of this Ordinance may not provide an adequate remedy at law. Therefore, upon direction of the Board of Supervisors, the Township Solicitor shall file an action in a court of competent jurisdiction to restrain and enjoin any violation or threatened violation of this Ordinance and may seek such other or additional relief as may be proper.

Section 9. Severability.

If any provision, paragraph, word, section or ordinance of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provision, paragraphs, words, sections and ordinances shall not be affected and shall continue in full force and effect.

Section 10. Repealer.

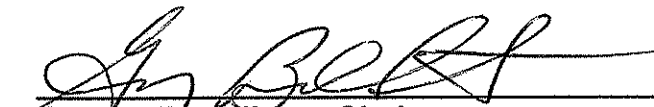
All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 11. Effective Date.

This Ordinance shall be effective five (5) days from the date of enactment.

ENACTED and ORDAINED this 24th day of November, 2009.

**BOARD OF SUPERVISORS OF
EAST FALLOWFIELD TOWNSHIP**


George Broadbent, Chairman

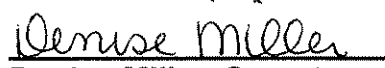

Chris Makely, Vice Chairman


Chris Amentas, Member


Gary Barach, Member

Garth Monaghan, Member

ATTEST:


Denise Miller, Secretary