

FRANKLIN TOWNSHIP
ORDINANCE NO. 1 of 1998

**The Franklin Township
Refuse and Recycling Haulers Licensing Ordinance**

An Ordinance, to be known as “The Franklin Township Refuse and Recycling Haulers Licensing Ordinance”, providing for licensing of refuse and recyclable haulers and conditions precedent thereto, providing for the manner and methods of collection, providing for license fees as from time to time established, providing incentives for residents to recycle, asserting the ownership of refuse and recyclables as being Franklin Township’s, providing for reporting requirements on the part of Licensees, and providing for penalties for violating provisions of the Ordinance.

WHEREAS, it is the intention of Franklin Township to encourage recycling to the maximum extent economically practical;

AND, WHEREAS, this license ordinance is designed to encourage this environmentally sound practice by providing for significant savings to patrons if they shift their refuse from the landfill stream to the recycling stream;

AND, WHEREAS, the Supervisors wish to provide for the orderly, efficient and reliable removal of refuse and recyclables from the Township;

NOW THEREFORE, the Board of Supervisors of Franklin Township hereby ordains:

DEFINITIONS:

Refuse--Items or material discarded or rejected as useless or worthless by a residential property owner or resident or commercial property owner or lessor. Trash, garbage or rubbish is synonymous with refuse. Refuse does not include materials of a hazardous nature or any other materials that are not permitted to be landfilled or recycled under current state or federal regulations or laws.

Person—Shall include persons, firms or corporations.

Commercial Property—Shall include those properties upon which are operated a business or industry and are within a district zoned for business or industry. Property owners/residents within residential or agricultural zoned areas of the Township that wish to avail themselves of any services designated herein specially for commercial properties must have a valid conditional use permit for a home occupation business and present a copy

of the Township authorization to the Licensee to avail themselves of the service. Farms shall be considered to fall under the residential requirements of this Ordinance unless the farmer, at his option, requests otherwise.

Weekly Unlimited Pickup—Shall include only that amount of refuse generated by one household in one week.

SECTION 1:

All domestic commercial and industrial refuse and recyclables accumulated or stored upon any property within Franklin Township is the property of Franklin Township and shall be collected and removed by a responsible person who shall be licensed by Franklin Township. Refuse and recyclables shall be disposed of in landfills or with a recycling center approved by the Board of Supervisors of Franklin Township in accordance with the Solid Waste Management Act and the Municipal Waste Planning, Recycling and Waste Reduction Act. All collection and disposal costs shall be borne by the property owner or resident from whose property the refuse is collected by utilizing the services of a licensed hauler providing services and collecting fees consistent with this ordinance.

SECTION 2:

a. No person shall collect, remove, haul or convey any refuse or recyclable, through or upon any of the streets or alleys of Franklin Township or dispose of the same in any manner or place without obtaining a license.

b. The fee for a regular and continuous license shall be payable annually and fixed pursuant to a Resolution of the Board of Supervisors of Franklin Township. All licenses for the regular and continuous service to the Township shall be issued for the calendar year or such portion thereof as shall remain after the issuance thereof. There shall be no reduction in the fee for a license issued after the beginning of any calendar year.

c. A single instance license may be issued for a one-time or short-term length of time collection of refuse or recyclables. The fee for such license shall be payable upon application and fixed pursuant to a Resolution of the Board of Supervisors of Franklin Township.

c. Every person who shall apply for a license under this Ordinance shall present payment for the license upon application and shall complete an application on a form provided by the Township. The Application, among other things, shall state the type of refuse and recyclable services to be performed, the manner of collection and the places and methods of disposal.

d. No license shall be granted if the manner, place and method of disposal shall not conform to the requirements of this ordinance.

e. No Licensee shall make any change in the manner, place and method of disposal of refuse or recyclables collected by him without first obtaining the permission of the Board of Supervisors of Franklin Township.

f. It shall be unlawful for an unlicensed person to collect or remove refuse or recyclables for a fee from any property within the Township.

SECTION 3:

Licensees desiring to offer regular and continuous service to the Township must offer the following frequency of service to all single-family residential properties.

- a. Weekly pickup of refuse contained in cans, bags stored within cans, or dumpsters. This refuse is to be disposed of in a designated landfill.
- b. Weekly pickup of commingled recyclables in cans, bags contained in cans or dumpsters to include: plastics #1 and #2, mixed-color food containers, bimetallic food cans and containers. These recyclables are to be taken to a recycling center.
- c. Monthly or more frequent pickup of newspaper recyclables. These recyclables are to be taken to a recycling center.

SECTION 4:

Licensees desiring to offer regular and continuous service to the Township serving multiple family residential properties and/or commercial properties, must provide the following frequency of service.

- a. Monthly or more frequent pickup of refuse in cans, bags contained in cans or dumpsters. This refuse is to be disposed of in a designated landfill.
- b. Monthly or more frequent pickup of commingled recyclables in cans, bags contained in cans, or dumpsters to include: plastics #1 and #2, mixed-color food containers, bimetallic food containers and newspaper. These recyclables are to be taken to a recycling center.

SECTION 5:

The Licensee offering regular and continuous service to the Township must provide the following levels of service to single family residential property owners at the owner's option:

- a. Option 1--Weekly, an unlimited number pickup of cans, bags contained in cans or a single emptying of a dumpster of refuse for a quarterly fee billed to the property owner/resident, plus no charge pickup of recyclables. At least quarterly and at no additional charge the Licensee must offer the property owner/resident, upon request of the property owner/resident, pickup of household furniture.
- b. Option 2--A "by the bag" tag for affixing to plastic garbage bags to be purchased by mail from the Licensee or purchased from the Township as agent for the Licensee. Bag size to be 30-33 gallon. In the event a resident does not require weekly pickup, the Licensee may make arrangements for pickup of tagged refuse by requiring the property owner/resident to phone the Licensee for a pickup. Allowing residents to establish a pickup schedule less frequently than weekly in order to completely fill a single 30-33 gallon bag will promote maximum recycling for small refuse generators and is to be encouraged by the Licensee. Licensee must allow residents to purchase tags from the Township. The Township may designate subagents for the sale of tags. The Licensee must sell tags to the Township to sell to residents at the same rate as the Licensee would sell tags directly to the property owner/resident less three (3) per cent rounded up to the nearest cent to cover the Township's expense of selling bag tags. The Licensee shall refund the cost of tags to the Township in exchange for the tags if Licensee is no longer licensed. Licensee must pick up recyclables at no charge. The

Licensee must offer to the property owner/resident, at least quarterly upon request, pickup of household furniture to which a specified number of refuse tags are to be affixed. The number of tags to be applied for a certain type/piece of furniture must be approved by the Township.

c. Option 3--If a property owner/resident chooses not to participate in either the unlimited quarterly pickup Option 1 method or "by the bag" tag Option 2 method, the Licensee must offer an optional "by the bag" tag for pickup of recyclables. Bag size shall be 30-33 gallons. This recyclable tag must be offered at a predetermined cost which shall be significantly lower than the cost of a refuse bag tag and must be approved by the Township. These tags must be sold by mail from the Licensee or by the Township in the same manner and with the same discount as the refuse bag tags. Licensee must offer at least monthly pickup of recyclables. Licensee may make arrangements for pickup of tagged recyclables by requiring the property owner/resident to phone the Licensee to request a pickup. The Licensee must offer to the property owner/resident, at least quarterly upon request, pickup of household furniture to which a specified number of refuse tags are to be affixed. The number of tags to be applied for a certain type/piece of furniture must be approved by the Township

SECTION 6:

The Licensee offering regular and continuous service shall schedule pickups for each single-family residence on a weekly basis. The Licensee shall be responsible to notify residents of the day regular collections will be made. Should the scheduled day need to be changed due to a holiday, equipment breakdown, inclement weather or for some other unexpected reason, the Licensee must make a good faith effort to contact all his customers to advise them of the change in that week's schedule. Notification shall also be made to the Township Office so that they may properly inform any residents who may inquire.

SECTION 7:

The Licensee shall pickup all types of refuse on the property that is allowed to be deposited in the landfill. The Township may exclude from pickups those types of refuse that are included in its annual recycle days program. It shall be the responsibility of the Township to inform its citizens about its annual recycle days and the items which can be disposed of either through the Licensee's services or through the Township's recycle days program.

SECTION 8:

a. The Licensee shall be permitted to collect, remove and transport refuse and recyclables on any day of the week except Sunday and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Unless otherwise specially permitted by the Supervisors, the collection of refuse shall not commence before 6:00 A.M. and shall be completed by 7:00 P.M. local time on any single day of collection.

b. During the frost season from February 15th to June 1st of each year, Licensee shall use 1-ton type vehicles to pickup at curbside from all Township roads.

Larger trucks weighing in excess of 12,000 lbs., loaded or empty, are restricted to the following roads: Rt.98, Crane Road & Old State Road.

SECTION 9:

The Licensee shall be required to collect and remove refuse in motor-driven vehicles having enclosed steel bodies with steel covers that are watertight, non-leaking automatic-packer-type bodies. Licensee shall conduct the collection, removal and transportation of the refuse and recyclables so as to insure general cleanliness and sanitation throughout the entire process. An exception is made for 1-ton sized trucks that are used to bring refuse and recyclables to the larger enclosed, packer: these 1-ton trucks may be of an open-top, dump-body design.

SECTION 10:

The Licensee shall be required, at his own cost, to dispose of in an approved manner consistent with all laws and regulations, all quantities of refuse and recyclables collected by him. The Licensee shall furnish, at his own cost, all vehicles, machinery and equipment necessary for the performance of the collection and disposal of refuse and recyclables.

SECTION 11:

Each Licensee shall provide to the Township annually a valid agreement, not subject to cancellation, with an approved facility for the disposal of landfill refuse in accordance with the Erie County Waste Management Plan. Each Licensee shall provide to the Township annually a valid agreement, not subject to cancellation, with an approved facility for the disposal of recyclables in accordance with applicable laws of the county and state. Prospective Licensees shall present these agreements upon application for the license. Existing Licensees shall annually provide these agreements with payment of their annual license fee.

SECTION 12:

The Licensee shall establish, subject to the approval of the Board of Supervisors of Franklin Township, the rates to be charged for the refuse and recyclables to be collected. The Licensee shall enter into individual contracts with the property owner/resident without liability to or upon Franklin Township. The Licensee shall report no less than annually, upon request of the Township, the quantities of landfill refuse disposed of and the quantities of recyclables by type that are recycled to the Township in a manner and upon a form provide by the Township.

SECTION 13:

The Board of Supervisors of Franklin Township shall have the right to determine finally the true validity of any complaint concerning the failure of the Licensee to collect refuse or recyclables in accordance with his license. The Board of Supervisors' decision shall be final and binding on the Licensee. Should the Licensee fail to provide services in accordance with this Ordinance, then the Township, upon resolution of the Supervisors, shall cancel the license of the Licensee. No refund for any unused portion of the license shall be due and payable to the former Licensee. Further collection of

refuse or recyclables shall subject the former Licensee to the penalties in this Ordinance for collection of refuse without a license.

SECTION 14:

The Licensee shall not assign his license in whole or in part without the written consent of Franklin Township. Such assignment and consent, if approved by the Township, does not release the Licensee from any of his obligations or liabilities under the license and this Ordinance. Any violation of this section shall be sufficient cause for the immediate cancellation of the license.

SECTION 15:

Proper and continuous coverage of the Licensee's employees under the Worker's Compensation, Unemployment Compensation and Social Security Acts, as amended, are part of the Licensee's requirement to be licensed. The Licensee shall furnish a certificate of insurance demonstrating employee coverage to Franklin Township upon application for a license and thereafter upon payment of the annual license fee.

SECTION 16:

The Licensee shall carry an insurance policy providing complete third party comprehensive liability and property damage insurance, covering not only the Licensee but also Franklin Township as a named insured, the limits of which shall be not less than \$500,000 personal liability and \$500,000 property damage. Licensee shall furnish proper certificates of insurance coverage to Franklin Township upon application for a license and annually thereafter upon payment of the annual license fee.

SECTION 17:

Any violation of this ordinance shall be sufficient cause for immediate revocation of the license.

SECTION 18:

Faithful adherence to the recycling objective of this Ordinance and faithful performance of the manner and methods of the collection and disposal of refuse and recyclables must be of the essence for the Licensee unless prevented by unavoidable accident, act of God or public immunity, or any restrictions or embargoes imposed by the Federal Government or any agency thereof. It is agreed and understood that all material shall be collected, removed and disposed of in a skillful and businesslike manner satisfactory to Franklin Township.

SECTION 19:

The Licensee shall furnish evidence satisfactory to Franklin Township that he has available equipment, by ownership or valid lease agreement, for collecting and disposing of materials in the performance of his services to the Township and that all equipment for transporting of materials will comply with the sanitary and watertight requirements set forth by Franklin Township.

SECTION 20:

Any person, firm or corporation collecting refuse without a license or any person who violates any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred (\$600.00) Dollars and in default of payment, to be imprisoned for a term not to exceed thirty (30) days. Each day a violation occurs shall be considered a separate violation of this Ordinance. Nothing in this Ordinance shall prevent residents or property owners from selling scrap metals, paper, glass, etc. in any manner on his own.

SECTION 21:

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 22:

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 parts of this ordinance. It is hereby declared the intent of the Board of Supervisors of Franklin Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part hereof not been included herein.

**APPROVAL PAGE
FRANKLIN TOWNSHIP ORDINANCE NO. 1 OF 1998**

FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS

DENVER L IRELAND
Chairman

JOHN J. SACHAR
Vice-Chairman

DAVID G. HENDERSON
Supervisor

Attest:

BONNIE J. BERNHARDT
Secretary/Treasurer

I hereby certify that the foregoing Ordinance was advertised in the Brown-Thompson Newspapers on the _____ day of _____, 1998, a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth at the regular meeting of the Franklin Township Board of Supervisors held on the _____ day of _____, 1998.

BONNIE J. BERNHARDT
Secretary/Treasurer