

FRANKLIN TOWNSHIP
MUNICIPAL WASTE

ORDINANCE NO 1 - 2021

An Ordinance of Franklin Township, Erie County, Pennsylvania, providing for the collection, transportation and disposition of municipal waste; mandating that all generators of municipal waste assure proper collection and disposition of the same; prohibiting the collection and/or disposal of municipal waste and garbage without a proper registration therefor and establishing duties of registrants; permitting entities to collect municipal waste generated by residential units other than those deemed a commercial pickup and establishing requirements to be met by residents and entities; requiring that owners and occupants of residential properties pay fees for services as established under a contract by the contracted entities; establishing duties and prohibitions and fines and penalties for violation; and including repealor and severability clauses.

WHEREAS, Sections 2101, et seq. of the Second Class Township Code as reenacted and amended by Act 60-1995, P.L. 350, authorize the Franklin Township Board of Supervisors to regulate and prohibit the dumping or depositing of ashes, garbage, solid waste and refuse materials, to provide for the collection and disposition thereof and to enter into contracts for services related thereto; and

WHEREAS, the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, et seq. (the "Act"), imposes obligations upon municipalities to provide for proper collection, disposal, recycling and/or composting of municipal waste, recyclable materials and other waste and authorizes municipalities to contract with any person to carry out municipal duties related thereto; and

WHEREAS, pursuant to the Waste Transportation Safety Act, 27 Pa. C.S. § 6201, et seq., the Department of Environmental Protection has undertaken licensure of the transportation of municipal waste and residual waste and the Board of Supervisors finds it necessary to respect such PaDEP authority while ensuring the Township's ability to meet its duties and enforce its own regulations; and

WHEREAS, the Franklin Township Board of Supervisors deems this Ordinance to be necessary and appropriate for the public health, safety and welfare of Franklin Township.

NOW, THEREFORE, IT IS ENACTED AND ORDAINED by the Board of Supervisors of Franklin Township, Erie County, Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1 - Short Title

1.01 This Ordinance shall be named and referred to as the "Franklin Township Municipal Waste Ordinance."

Section 2 - Incorporation of Recitals

2.01 The recitals above are hereby incorporated in this Ordinance as though restated herein.

Section 3 - Definitions

3.01 Definitions established in the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, et seq. and in the Waste Transportation Safety Act, 27 Pa. C.S. § 6201, et seq., shall apply

and extend to terms within this Ordinance by reference, unless expressly modified in this Ordinance.

3.02 Words not specifically defined in the Act or in this Ordinance shall be given their reasonable and customary meanings.

3.03 For the purposes of this Ordinance, the following terms shall be defined as follows:

3.03.1 "Act" - the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, et seq., and as the same may in the future be amended.

3.03.2 "Commercial establishment" - the place at which any business within the boundaries of Franklin Township is conducted by any person which, in the operation of such business, has or accumulates municipal waste and/or garbage in or about its place(s) of business or elsewhere. For purposes of this Ordinance, a commercial establishment shall include any business, institutional, industrial or other use excepting only a residential use.

3.03.3 "Disposal" - shall be deemed to include the disposition, injection, dumping, spilling, leaking or placing of solid or municipal waste into or on the land or water in a manner that the constituent of the waste enters the environment, is emitted into the air or is discharged into the ground or to the waters of the Commonwealth.

3.03.4 "Disposition" - shall be deemed a generic reference to the proper disposal of municipal waste in the manner prescribed in this Ordinance.

3.03.5 "Family" - shall be and include any person or group of persons maintaining a separate dwelling, apartment or other habitation unit within the limits of Franklin Township.

3.03.6 "Garbage" - shall be deemed to consist of and include all vegetable and animal waste, including offal, carcasses, fat, bone, swill and animal and vegetable matter or other organic substance subject to fermentation or decay, resulting from the storage, handling, consumption and/or preparation of food. The term shall not be deemed to include dishwater or other soapy water.

3.03.7 "Hauler"/"Hauling Firm" - shall mean and include, without limitation, any person, firm, entity or contractor engaged in the collection, transportation and/or disposition of municipal waste and/or garbage in Franklin Township.

3.03.8 "Household rubbish" - shall consist of and include old furniture, paper, trunks, stoves, furnace pipe, water boilers, light bulbs, crockery, cans, bottles and containers, hedge and tree trimmings, garden residues, shrubbery and similar material, grass clippings, pipe and all other rubbish which may accumulate in the ordinary course of use of a residential dwelling, but excluding dirt, trees, tree limbs over four feet (4') in length and construction materials as defined above. The term "Household Rubbish" shall be deemed included within the term "municipal waste."

3.03.9 "Leaf Waste" - shall include leaves, garden residue, shrubbery and tree trimmings, and similar material, but not including grass clippings.

3.03.10 "Licensed Transporter" - shall include any person, firm, entity or contractor engaged in the collection, transportation and/or disposition of municipal waste and/or residual waste and who is subject to licensure and regulation by the Department of Environmental Protection under the Waste Transportation Safety Act.

3.03.11 "Municipal waste" - shall include and mean any garbage, refuse, industrial office waste or other material, including solid, liquid, semi-solid or contained gaseous material, resulting from operation or use of any residential dwelling or unit and/or any commercial establishment and/or other use or activity (Section 6018.101, et seq.). This term includes "garbage," "rubbish" and "solid waste".

3.03.12 "PaDEP" - shall mean the Pennsylvania Department of Environmental Protection.

3.03.13 "Person" - shall mean and include any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, Federal or State government, agency or institution, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a duty, prohibition, fine or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other entity having officers and/or directors.

3.03.14 "Responsible party" - shall generally mean and include all persons responsible for compliance with the provisions of this Ordinance, including but not limited to provisions regulating collection, transportation and disposition of municipal waste. The term shall include "resident," owners, landlords of multi-family rental or condominium residential properties and their agents; owners, landlords of mobile home parks and their agents; condominium unit owners, tenants and/or occupants of multiple unit residential dwellings; and owners, landlords, managers and/or their agents and occupants and/or tenants of commercial, institutional, industrial and public properties.

3.03.15 "Rubbish" - shall consist of mixed and waste fragments resulting from the use of household necessities, including but not limited to glass, metal, tin and wood, china, leather, rubber, carpeting, pruning's from vines and other foreign matter, but excepting ashes and garbage.

3.03.16 "Solid waste" - shall be defined as in the Act.

3.03.17 "Transportation" - the offsite removal of any municipal waste at any time after generation.

Section 4 - General Duties and Prohibitions

4.01 General Duties

Requirements in this Ordinance that municipal waste, be separated at the source, placed for collection, and collected shall apply to all properties in Franklin Township and to all owners, residents, tenants and/or occupants of such properties and their managers or agents, and to all firms or entities, waste disposal and composting facilities, if any.

4.01.1 Owners, residents, tenants and/or occupants of residential properties within Franklin Township shall comply with duties imposed under this Ordinance by contracting with a firm registered by Franklin Township for the collection, transportation and proper disposition of municipal waste.

4.01.2 Responsible parties for properties deemed a "commercial pickup" must contract with a firm or entity registered by Franklin Township for collection, transportation and proper disposition of municipal waste generated at or upon said properties and make adequate provision for proper source-separation and placement of said materials for collection.

4.01.3 All persons may, at their discretion, chose a waste hauler/contractor for the collection and disposition of municipal waste. A list of those servicing Franklin Township and

licensed by the PaDEP are available on the Township's website.

4.02 General Prohibitions

This section shall not limit or modify provisions of this Ordinance which identify and make provision for specific violations. In addition specific obligations imposed in this Ordinance, the

following acts and/or omissions are hereby declared unlawful and are prohibited, subject to the fines and/or penalties imposed in this Ordinance:

4.02.1 No materials shall be allowed to accumulate on the ground nor be deposited on the streets or highways, vacant lots, homes, nor on any land publicly or privately owned, nor be thrown into any stream or body of water in Franklin Township, except as is expressly permitted in this Ordinance or by other laws.

4.03 Exceptions

4.03.1 This Ordinance shall not be construed to prevent or prohibit any person engaged in the business of farming from maintaining a manure pile on land occupied by him or her, so long as a nuisance does not result from said activity.

4.03.2 Nothing herein shall be construed to prohibit any person from building or maintaining a compost pile, consisting of grass clippings, leaves, weeds, soil, hedge and/or shrubbery clippings and other organic material, so long as a nuisance does not result from said activity.

4.03.3 This Ordinance shall not be construed to prevent or prohibit any person from taking to a licensed recycling or composting facility recyclable materials and/or leaf waste for which general collection is provided for in this Ordinance.

Section 5 - Collection and Disposal Generally

5.01 All municipal waste generated at and upon all properties located in Franklin Township shall be separated, placed for collection, collected, transported, disposed of, recycled and/or composted in accordance with the provisions of this Ordinance.

5.02 It shall be a violation of this Ordinance and unlawful for any person to accumulate or store, or allow accumulation or storage of municipal waste, recyclable materials and/or leaf waste in such manner as to give rise to a nuisance, and any such accumulation or storage shall constitute violations of this Ordinance and of the Nuisance Ordinance, and be subject to provisions of the Nuisance Ordinance pertaining to abatement of nuisances and payment of the costs thereof.

5.03 No municipal waste shall be set out by the owner or occupant of such residential property for any reason or for the purpose of collection more than twenty-four (24) hours prior to the previously established and scheduled time for collection thereof by the contractor.

Section 6 - Registration Required for Collection

6.01 It shall be unlawful for any person, firm or corporation to engage in the gathering, collecting and disposal or disposition of municipal waste, recyclable materials and/or leaf waste in the Township of Franklin without first registering with the Township and obtaining a certificate of registration.

6.02 If the applicant desires to collect and transport municipal waste and/or residual waste, the applicant shall provide to Franklin Township a copy of the license issued by PaDEP to applicant as a licensed transporter.

Section 7 - General Standards for Collection, Transportation and Disposition

7.01 All persons, firms or corporations collecting municipal waste in Franklin Township and transporting the same upon the streets of the Township shall collect and transport such materials only in conveyances and receptacles tightly closed on the bottom and sides, so as to prevent such materials from spilling, dropping or falling to the streets, alleys or highways.

7.02 All materials shall be disposed of by the residential contractor, any registrant or any other collector in such manner as not to endanger or interfere with the health, safety and comfort of any of the inhabitants of Franklin Township and in compliance with all Federal, State and local laws, ordinances, regulations and rules.

Section 8 - Enforcement Remedies

8.01 Franklin Township, through its Board of Supervisors and other code enforcement personnel as authorized by the Board of Supervisors to enforce this Ordinance, shall have full authority to investigate alleged violations, issue enforcement notices, impose administrative fines, commence civil actions for enforcement and the collection of fines for violation of this Ordinance and otherwise enforce and secure compliance with the provisions of this Ordinance.

8.02 The Board of Supervisors and code enforcement personnel entrusted with enforcement of this Ordinance shall have authority to issue cease and desist orders, directing persons found to have violated provisions of this Ordinance to cease and remedy the said violations, and shall further have authority to seek equitable and/or injunctive relief to prohibit violations.

8.03 Violations of this Ordinance which are declared in this Ordinance or in the Franklin Township Nuisance Ordinance to constitute nuisances shall be enforced under either ordinance, and the Board of Supervisors shall have authority to abate nuisances and recover the costs thereby incurred from the responsible party.

8.04 Each day that a violation of this Ordinance is permitted to exist shall constitute a separate and continuing offense.

8.05 Any person, corporation, partnership or other entity who/which violates any provision of this Ordinance shall be liable to administrative and civil proceedings for enforcement. Upon a determination of code enforcement personnel that a violation of this Ordinance has occurred, an administrative enforcement notice shall be given to or served upon the violator(s) such notice to impose the administrative fine for such violation as prescribed in Section 9 of this Ordinance. In the event such administrative fine is not paid by the deadline stated in the enforcement notice, code enforcement personnel shall institute a civil action in the District Justice Court having appropriate jurisdiction.

Section 9 - Penalties for Violation

9.01 Any person, corporation, partnership or other entity violating this Ordinance shall pay the fines prescribed in this Section. The following fines are hereby prescribed for violation of this Ordinance:

Violation

Prescribed Fine

9.01.1	Failure to register with the Township - Section 9	\$600.00
9.01.2	Failure by the owner or responsible party to ensure proper disposition of materials as required, or to submit required notices and reports to the Township	\$600.00
9.01.3	Placing municipal waste, recyclable materials or leaf waste generated on one property onto another's property	\$600.00
9.01.4	All other violations	\$300.00

9.02 The prescribed fines shall be assessed for each day a continuing violation occurs or is permitted to occur.

9.03 In the event a violation of this Ordinance is believed to have occurred, the Township shall issue a written enforcement notice, directing that the violator take such action as the Township determines to be necessary to remedy such violation. If such violation is not remedied within the time allowed by such notice, the Township shall commence a civil enforcement action in the office of the District Magisterial Judge having jurisdiction.

9.04 All judgments entered in civil actions for enforcement commenced by Franklin Township shall, in accordance with the Second Class Township Code and Ordinances ____ and _____ as the same may in the future be amended, include the civil action fine prescribed for the violation in Section 9, plus all court costs and plus all attorney's fees incurred by Franklin Township in such matter. A person found to have violated this Ordinance shall be responsible for payment of all attorney's fees incurred by the Township in all proceedings related to enforcement, including appeals taken by the violator.

Section 10 - Authority of Board of Supervisors

10.01 The Board of Supervisors shall have authority to adopt, amend, implement and administer such policies, procedures and forms as it deems necessary or appropriate to effectuate this Ordinance.

10.02 The Board of Supervisors shall designate such persons to be responsible for administering and enforcing this Ordinance as it deems appropriate.

10.03 The Board of Supervisors shall have authority to enter into agreements with such persons or firms as it deems appropriate to effectuate this Ordinance and its purposes.

Section 11 - Severability


11.01 If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstance is, for any reason, held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions, which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

Section 12 - Repealor

12.01 All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed.

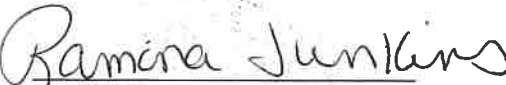
BE IT ENACTED this 15th June, 2021.

FRANKLIN TOWNSHIP SUPERVISORS



Dennis Howard, Supervisor

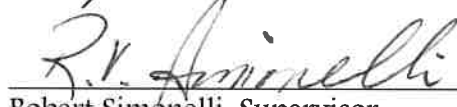
FRANKLIN TOWNSHIP
SECRETARY



ATTEST



James Sachar, Supervisor



Robert Simonelli, Supervisor