

SOUTH MIDDLETON TOWNSHIP  
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 09-10

AN ORDINANCE REGULATING THE COLLECTION, STORAGE, DISPOSAL AND RECYCLING OF SOLID WASTE AND RECYCLABLES; PROVIDING FOR THE AUTHORIZATION AND LICENSING OF TOWNSHIP COLLECTOR(S) FOR SOLID WASTE AND RECYCLABLES; AND PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, the Act of July 28, 1988 Act No. 1988-101, known as the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) provides and requires that South Middleton Township shall have the duty and power to adopt and implement programs for the collection and recycling of municipal solid waste and recyclables; and

WHEREAS, the Board of Supervisors of South Middleton Township feels that it is in the best interest of the Township, its residents and the environment to become actively involved in recycling, reducing solid waste and conserving our material and natural resources;

WHEREAS, ordinance 93-01, ordinance 94-08, ordinance 95-01 and ordinance 03-03 are repealed;

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors in and for the Township of South Middleton, as follows:

ARTICLE I. GENERAL

SECTION 1: SHORT TITLE

This Ordinance shall be known and may be cited as the "South Middleton Township Solid Waste and Recycling Ordinance".

SECTION 2: PURPOSE

The Purpose of this Ordinance is to provide for the health, safety, and welfare of the residents of South Middleton Township by regulating the collection, storage, transportation, removal, dumping, deposit, disposal and recycling of solid waste by instituting a comprehensive solid waste management program and establishing a mandatory recycling program pursuant to the requirements of Act 101 and amendments thereto.

### SECTION 3: DEFINITIONS

The following words and terms when used in this Ordinance shall have, unless the context clearly indicates otherwise, the meaning given to them in this Section:

1. Aluminum means the light weight ductile and malleable metallic substance or element commonly known as aluminum and shall include all aluminum food and beverage cans. This description excludes aluminum foil, trays, plates, and miscellaneous aluminum products.
2. Apartment Building is a building used for residential purposes with four (4) or more dwelling units, and any and all other multi-residential units including condominium units, excepting hotels, motels, tourist cabins and dormitories.
3. Ashes are the residue from the burning of wood, coal, coke or other combustible materials for the purpose of heating and cooking.
4. Bulky Waste are large items of solid waste and, therefore, require special handling, including, but not necessarily being limited to, large household appliances such as stoves and refrigerators (with coolant removed), plumbing fixtures, furniture, large crates, mattresses, tools, machinery or parts thereof.
5. Commercial Establishments are establishments engaged in non-manufacturing or non-processing business; including but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.
6. Commingled refers to placement of recyclable materials as defined herein, except newspaper, corrugated cardboard, junk mail and glossy paper in a special recycling container for the purpose of collection without there having been segregated by color or type.
7. Community Activities are events that are sponsored in whole or in part by the Township, or conducted within the Township and sponsored privately, which include, but are not limited to, fairs, bazaars, socials, picnics, craft fairs, and organized sporting events that will be attended by 200 or more individuals per day.
8. Corrugated Cardboard is layered paper or cardboard in which one or more layers is pressed into parallel grooves or ridges and which is normally used for wrapping, packing, shipping and/or storage of dry materials. Specifically excluded from this definition are pressboard and cardboard commonly known as asian board or asian cardboard, as well as any corrugated cardboard containing a shiny finished side or sides or which is contaminated with food or other material.
9. Dwelling Unit is one or more rooms in a residential building which room or rooms have fixed cooking facilities arranged for occupancy by one or more persons

living together, or one family. Dwelling Unit shall also be deemed to mean unit as set forth in this Ordinance.

10. Garbage is all table refuse, animal and vegetable matter, offal from meat, fish and fowl, fruits, vegetables and parts thereof, and all other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.
11. Glass shall mean the hard, brittle, transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda and lime and/or other chemicals and substances usually included in the manufacture of glass; and shall for the purpose of this Ordinance include all materials commonly known as glass bottles or containers. This includes all food and beverage containers made of glass of one gallon or less capacity. Excluded are blue glass, ceramics, pottery, and flat glass commonly known as window or plate glass, light bulbs, headlights, and mirrors.
12. Glossy Paper is magazines and shiny newspaper inserts commonly used in advertisements.
13. Hauler is the solid waste and recyclables collection company authorized to collect solid waste and recyclables in South Middleton Township pursuant to the contract with the Township.
14. Hazardous Waste is any chemical, compound mixture, substance, or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as the term is defined by or pursuant to federal or state law, and, for the purpose of this Ordinance, includes residual waste as that term is defined by or pursuant to the Environmental Protection Agency and/or state or federal law or regulation.
15. High Grade Office Paper, printed or unprinted sheets, shavings or cuttings of sulfite or sulfate ledger, bond, writing, or other paper having similar fiber or filler content, including, but not limited to, stationery, copy paper and computer paper, and excluding treated, coated, and padded stock.
16. Institutional Establishments are those facilities that house or serve groups of people for a common purpose, such as hospitals, schools and nursing homes.
17. Leaf Waste is leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.
18. Mandatory participation is defined as every household in the Township participating in the solid waste collection and recycling program initiated by the Township with the authorized hauler.

19. Mobile Home Parks parcel(s) of contiguous land designed and improved for use by 2 or more mobile homes.
20. Municipal Establishments means public facilities operated by the Township and any other governmental and quasi-governmental authorities.
21. Municipality or Township means "South Middleton Township".
22. Newspaper means types of paper made from wood pulp and/or other fibrous materials mixed together, whether with or without chemicals, to produce thin sheets of the products customarily and primarily used for the production of newsprint; newspaper does not include magazines or glossy paper insert commonly used in advertisements.
23. Paperboard is used in cereal, soda, pasta, etc. boxes that can be torn.
24. Person is every natural person, firm, corporation, partnership, association, institution or other entity. In any provision of this Ordinance prescribing a fine, imprisonment or other penalty, the term "person" shall include the individual partners of a partnership and the individual officers and directors of any corporation, association or other entity having officers and/or directors.
25. Plastics numbers 1 through 7, narrow-necked containers only, without lids.
26. Processing Center is any facility maintained from the purpose of storing, preparing, and/or consolidating recyclable materials (as defined herein) for sale.
27. Public Nuisance is any premises which is capable of being a fire, health or safety hazard, due to, but not limited to, accumulation of any flammable materials, solid waste, recyclables, hazardous waste; or any premises which contains unauthorized accumulation of solid waste and/or recyclables.
28. Recyclable Materials/Recyclables include clear and colored glass; aluminum cans, plastics #1 through #7, narrow-necked containers only; newspaper; steel, tin and bimetallic cans; corrugated cardboard; glossy paper; high grade office paper and such other materials as the Township may designate from time to time.
29. Recycling Collection Services are those services to be performed by the Township Hauler as follows: (1) the collection and conveyance of recyclable materials; (2) processing of recyclable materials as applicable; and (3) marketing of the recyclable materials.
30. Recycling Containers are sturdy plastic containers having a minimum capacity of 18 gallons, being of one color and designated by the Township.

31. Residential Building shall mean any occupied single or multi family dwelling having up to four (4) dwelling units per structure.
32. Rubbish is branches, trees, sawdust, chips, shaving, wood, woodenware, leather, rags, grass, straw, manure, and all solid combustible materials not included in this Section under the term garbage.
33. Solid Waste shall mean all matter and materials which are discarded or rejected by the owners or producers thereof as offensive or useless, or which by their presence or accumulation may injuriously affect the health, comfort, and safety of the citizens of South Middleton Township; it shall include ashes, garbage, rubbish, trash, and other refuse materials, but exclude human body waste, debris from household renovations, whether interior or exterior, dirt, rock, lead pipes, leaf waste, hazardous wastes, and recyclable items as defined herein.
34. Solid Waste Collection Services are those services to be performed by the Township Collector(s) or Township Licensee(s) which include the collection of solid waste from locations specifically designated by the Township, Township Collector(s) or Township Licensee(s), transportation of solid waste in trucks, and disposal of solid waste at a facility licensed by the Pennsylvania Department of Environmental Protection (DEP) in accordance with the Cumberland County Municipal Waste Management Waste Plan.
35. Toter cart is the 90-99 gallon container to be distributed by the hauler and will remain the property of the hauler.
36. Township Collection Service is a service for the collection of solid waste, recyclable and leaf waste in accordance with this Ordinance.
37. Township Collector is a person licensed by the Township by means of an independent contract to have the right and privilege, subject to certain limitations, to collect, haul and/or dispose of solid waste and recyclables within the Township of South Middleton, but shall not be construed as meaning that such person is an agent, employee, official, or representative of the Township.
38. Township Licensee is a person licensed by the Township to collect, haul and/or dispose of solid waste, bulky waste and/or recyclables.
39. Townhouse is a single family dwelling attached to another dwelling and separated by a common wall which shall include duplex and fourplex and similar dwellings.
40. Townhouse Complex is any group of four (4) or more Townhouse units under common ownership, management or control whether by one or more individuals or homeowners association.

41. Truck(s) is a vehicle used for the collection of solid waste and/or recyclables which has mounted thereon an approved type, watertight sanitary body, or which has a standard truck body made watertight and equipped with means of covering to prevent loss of material by wind.

ARTICLE II. ESTABLISHMENT OF A RECYCLING AND SOLID WASTE DISPOSAL PROGRAM; PREPARATION AND STORAGE OF SOLID WASTE, RECYCLABLES AND LEAF WASTE

SECTION 1. RECYCLABLE MATERIALS

A. Residential Uses

On or after March 1, 2010, it shall be mandatory for all persons who are owners, lessees, and occupants of residential units or buildings within the Township of South Middleton to separate and store recyclable materials and solid waste and provide for the proper disposal and/or recycling of said materials in accordance with the methods provided by this Ordinance as follows:

1. To be recycled:
  - (1) Clear glass;
  - (2) Colored glass (green, brown, and amber);
  - (3) Aluminum cans;
  - (4) Bimetallic, tin, and steel cans;
  - (5) Plastics #1 through #7, narrow-necked containers only;
  - (6) Newspapers;
  - (7) Glossy paper;
  - (8) Corrugated Cardboard;
  - (9) Junk mail;
  - (10) Telephone books;
  - (11) Paperboard, such as cereal or pasta boxes.
2. To be disposed of by licensed collector or contractors;
  - (1) All solid waste, as defined by this Ordinance.
3. To be disposed of by Township or designated Township Collector(s):
  - (1) Leaf Waste.

B. Commercial, Municipal, or Institutional Establishments and Community Activities

On or after March 1, 2010, it shall be mandatory for all persons who are owners, lessees and occupants of commercial, municipal or institutional establishments, and for community activities within the Township of South Middleton, to separate and store recyclable materials and solid waste and provide for the proper disposal and/or recycling of said materials in accordance with the methods provided by this Ordinance as follows:

1. To be recycled:
  - (1) High-grade office paper;
  - (2) Aluminum cans;
  - (3) Corrugated cardboard;
  - (4) Newspaper
  - (5) Glossy Paper, and
2. To be disposed of by licensed collector or contractors;
  - (1) All solid waste, as defined by this Ordinance.
3. To be disposed of by Township or designated Township Collector(s):
  - (1) Leaf Waste.

### C. Modification of Recyclable Materials Collected

The Township of South Middleton shall have the right to designate by Resolution additional recyclable materials and to change recyclable materials to be collected depending on feasibility and marketability of recyclable materials and requirements of Pennsylvania state law, rule or regulation.

## SECTION 2: Preparation, Storage and Collection of Solid Waste and Recyclables

### A. Preparation of Solid Waste, Recyclables and Ashes

- (a) All solid waste shall be drained of liquids before being deposited for collection and shall be separated and stored apart from recyclable materials.
- (b) Glass and plastic containers shall have caps and lids removed.
- (c) Glass, cans, and plastics shall be rinsed free of contaminants.
- (d) Ashes shall be stored in a non-combustible container until cool.
- (e) Magazines and newspapers including glossy and/or colored circulars/advertisements may be placed in paper bags (plastic bags prohibited) for recyclable collection.
- (f) All materials shall be otherwise prepared for collection in accordance with such regulations as are established by the Township.

## B. Containers

### 1. Containers to be collected by the Township Licensee or Hauler:

(a) All solid waste, to be regularly collected by the Township Licensee or Hauler shall be placed in 30-33 gallon plastic bags purchased by individual residents for such use or trash can be placed in 90-99 gallon toter, as provided by hauler without the use of bags.

(b) Recyclables to be regularly collected by the Township Licensee or Hauler, shall be placed in a recycling container which is clearly distinguishable from the bags used for collection of solid waste. The initial containers for residential customers shall be provided by the Hauler at no cost. Damaged containers shall be replaced at no cost to the customers.

(c) Cooled ashes shall be placed in a bag for collection, provided the bag weighs less than forty (40) pounds, and disposed by either placing bag in toter cart, or by placing a sticker on the bag.

(d) Bulky waste shall be collected on a weekly basis on the same day as solid waste and recyclables. The collection of such bulky waste shall be subject to the restrictions and requirements of the hauler.

(e) Corrugated cardboard shall be cut into sections 3 feet by 3 feet and placed in the recycling containers for collection.

(f) All solid waste placed for collection shall be enclosed entirely within the 30-33 gallon plastic bag purchased by individual resident for such use, except for toter use or into the toter provided by the hauler in which no bags are required. Solid waste placed in the bag shall be in such a quantity that the plastic bag can be tied closed and all contents thereof completely confined within the bag. Taping and/or cutting of bags for the purpose of depositing therein solid waste in an amount of excess of the bag's intended capacity is prohibited.

2. Ninety to ninety-nine (90-99) gallon solid waste carts (totter carts) shall be delivered by the hauler to those residents selecting the flat rate system. Such toter carts shall remain the property of the hauler.

No manner of containing solid waste or recyclables for collection shall be unnecessarily offensive to the senses, and provide further that approved bulk containers of metal, watertight and tight-fitting covers, may be used for commercial and institutional solid waste and recyclables and waste from apartment buildings and townhouse complexes, and that in the case of bulky waste being by its nature impractical of containment and incapable of causing litter, no container shall be required for collection purposes.



### C. Storing of Solid Waste, Recyclables and Leaf Waste

No person shall store or place any solid waste or recyclable in any street, alley or public place or upon any private property, whether owned by such person or not, within the Township except in proper containers for collection or under an express approval of the Township as designated by the Board of Supervisors. No person shall throw or deposit any solid waste or recyclables along roadsides, in any stream or other body of water. Leaves fallen from trees shall not be placed or allowed to remain upon or collected in piles upon any street or sidewalk, but will be collected by the Township or Township Collector(s), on dates scheduled therefor, if prepared and placed by method as directed by the Township.

## ARTICLE III. COLLECTION PRACTICES AND DISPOSAL

A. All owners of property within the Township shall provide for the regular preparation, collection and removal of all municipal waste and recyclables generated at such properties in one of the approved manners set forth herein.

B. On or after March 1, 2010, solid waste and recyclables from all residential buildings within the Township shall be collected by the authorized Township Hauler. Recyclable materials shall be collected by the Hauler on at least a weekly basis, on the same day as the collection of solid waste. Solid waste shall be collected by the Hauler from residential buildings as often as necessary, and not less often than weekly. Solid waste shall be collected either on a per bag system (persons or households pay for each bag of solid waste collected, each bag containing a tag, or other distinguishing marker to be purchased from the hauler) or on a flat rate system (persons or households shall pay a fixed price on a quarterly basis and shall place all solid waste in the toter cart distributed by the hauler). Initial tag supply shall be purchased from the Hauler; additional tags can be purchased from either the Hauler or the Township.

C. All residential buildings shall participate in the solid waste and recycling program initiated by the Township with the Hauler. All residential buildings shall participate by selecting and continuing in one of two alternative systems for collection: flat rate system on the per bag system. Failure to participate, or termination of service for non-payment to the Hauler, shall be a violation of this Ordinance and punishable as hereinafter described in Article IV hereof.

D. Those persons, households and/or residential buildings selecting the flat rate service shall be billed a fixed charge by the Hauler and payable directly to the Hauler. Billing by the Hauler may be in advance of service. Participants in the flat rate system shall receive 90-99 gallon toter cart to be distributed by, and remain the property of the Hauler. Solid waste generated in excess of the 90-99 gallon capacity shall be placed in trash bags identified with tags or other distinguishing marker sold by the Hauler. Any such bags in excess of the 90-99 gallon capacity of the toter cart shall be subject to an additional charge by the Hauler. Such charge shall be the same per bag cost as the per bag cost under the per bag system of collection.

E. Those persons, households and/or residential buildings selecting the per bag collection service shall purchase tags, or other distinguishing marker, directly from the Hauler. Participants in the per bag system shall be required to purchase a minimum of 18 tags per year.

SECTION 1: Collection Practices For Residential Buildings

On or after March 1, 2010, solid waste and recyclables from all residential buildings within the Township of South Middleton shall be collected by the Township Hauler. Solid waste shall be collected by the Township Hauler from residential buildings as often as necessary, but not less often than weekly. Recyclable materials shall be collected on a weekly basis, on the same day as the solid waste.

SECTION 2: Collection Practices for Apartment Buildings, Townhouse Complexes, Condominium Complexes, Mobile Home Parks and Similar Complexes

On or after March 1, 2010, the owner, landlord or an authorized agent of an owner or landlord of an apartment building, townhouse complex, condominium complex, mobile home park or similar complexes shall establish a collection system for solid waste and recyclables at each property by contracting with the Township Hauler for collection of said items. The contract shall provide for a practical system of separation, storage, and collection of residents' solid waste and recyclables. The collection system must provide containers that are suitable for collecting and sorting materials, be easily accessible, and include written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords, and agents of owners or landlords shall not be liable for the noncompliance of occupants of their buildings.

Recyclables shall be collected for apartment buildings as often as necessary, and not less than once a month. Solid waste shall be collected for apartment buildings as often as necessary, and not less than weekly.

Failure of the owner or occupier of property to provide for the collection of solid waste and for recyclable materials as set forth in this article shall constitute a violation subject to penalty and enforcement as provided by Article IV.

While it is recognized that individual contract/homeowners agreements exist that may preclude participation by March 1, 2010, mandatory participation will become necessary at the expiration of said agreements/contracts.

### SECTION 3: Collection Practiced for Commercial, Municipal and Institutional Establishments

On or after March 1, 2010, commercial, institutional and municipal establishments shall provide for the collection of solid waste and recyclables by contracting with a Township Licensee. A failure by said establishments to do so shall constitute a violation of this Ordinance subject to enforcement and penalty as provided in Article IV.

Recyclables shall be collected from commercial, institutional and municipal establishments as often as necessary, and specifically at least once a month. Solid waste shall be collected from commercial, municipal, and institutional establishments as often as necessary, and specifically at least weekly.

### SECTION 4: Points of Collection

#### A. Collection by Township Licensee(s) or Hauler:

Points of collection of solid waste and recyclables are a matter for agreement between the private parties involved; provided however, that such points shall be subject to the power of regulation of the Township, that no cartway of a road, street, or alley shall be employed as a point for the placing of waste containers, and that such points shall not constitute a nuisance, health or safety hazard, or unnecessary offense to the senses.

No material shall be placed for collection earlier than 6:00 p.m. the day preceding a scheduled collection day. Licensed Haulers shall not collect residential municipal waste from properties within the Township limits on Sunday.

Recyclable materials and solid waste that has been scattered or spilled from recycling containers or bags, other than through the negligence of the collector shall be replaced promptly in the recycling container or bag, as the case may be, by the property owner, lessee and/or resident.

### SECTION 5: Hazardous Waste Disposal

Hazardous waste shall not be placed in containers or bags for regular collections but shall be handled and disposed of in an alternate and safe manner and in accordance with all applicable federal, state, and local statutes, ordinances, rules and regulations.

### SECTION 6: Collection by Unauthorized Person(s)

It shall be unlawful for any person unauthorized by the Township to collect or remove solid waste or recyclable items from any other person's property. Any and each collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

SECTION 7: License or Contract Required to Collect, Haul or Dispose of Solid Waste and/or Recyclables

- A. (1) Any person(s) wishing to collect, transport, and dispose of solid waste and recyclables generated in the Township is required to obtain a license from the Township. The license shall be issued by the Township upon such terms, requirements and cost as shall be established by the Board of Supervisors of South Middleton Township by Resolution.
- (2) The collection, transport and disposal of solid waste and recyclables generated by sources other than commercial, municipal and institutional establishments, unless otherwise specified in this Ordinance, shall be on an exclusive basis awarded to the Hauler pursuant to a contract between the Township and the Hauler after the submission of bids.
- (3) No such license shall be issued to any person unless he or she also provides assurance, in writing, that any failure during the term of the license to comply with the Department of Environmental Resources' rules and regulations, Township rules and regulations, rules and regulations of the Cumberland County Recycling & Solid Waste Authority or this Section as each is constituted during the course of such term, will be reported to the Township, and any such failure or failures to report shall constitute grounds for revocation of the license by the Township, as shall any other just cause.
- (4) All such licenses shall expire on the 31st day of December of the year of issue.
- (5) Nothing in this Section shall operate to preclude the issuance of a license on the grounds that the prospective Licensee(s) will employ a nonwatertight vehicle in the collection or hauling of bulky waste where, such waste has, by its nature, no capacity for escape from the vehicle not being watertight; nor shall a Township Licensee who collects or hauls such bulky waste in a nonwatertight vehicle be subject therefore to any forfeiture or penalty under this Section.
- (6) It shall be unlawful for any person, other than a Township Licensee to collect, haul and/or dispose of solid waste, bulky waste, or recyclables in the Township of South Middleton or to perform or engage in solid waste and/or recycling collection services unless a license to collect, haul and/or dispose of such solid waste, bulky waste and recyclables shall have been first obtained. Any collection, hauling and/or disposal of solid waste and/or recyclables in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.
- (7) Nothing herein shall limit the right of the Township to implement public collection of solid waste whether by entering into contracts or by engaging in any collection practice permitted by law.

B. All Township Licensee(s) shall provide proof to the Township that each vehicle covered by the license is registered and permitted in accordance with the regulations of the Cumberland County Recycling & Solid Waste Authority.

C. To the extent permitted by law, the Township shall:

(1) Use reasonable efforts to inform residents of the benefits which may be obtained from recycling, and the types of waste which are recyclable.

(2) Use reasonable efforts to enforce the rules and regulations relating to containers for recyclables and proper preparation of recyclables by residents for collection by the Township Licensee(s).

(3) Use reasonable efforts to obtain the cooperation of the private solid waste collection hauler(s) with respect to mailing or delivering notices to residents, placing recycling stickers or signs on collection vehicles, or in other ways.

D. Subject to the exception in the case of a vehicle carrying bulky waste having no capacity to escape in any form by reason that the vehicle's not being watertight, no vehicle employed by the Township or any person in the collection or hauling of solid waste under this chapter shall be other than a watertight one. All vehicles employed in the collection or hauling of solid waste under this Section must be provided with a tight cover so as to prevent offensive odors from escaping therefrom and solid waste from being blown, dropped, or spilled.

E. The Township Licensee(s) shall report any violation of this Ordinance observed by them to the Township.

F. The Township Licensee(s) shall, on a quarterly basis, on the 15th day of the month following the end of the quarter, provide a recycling report to the Township which shall be submitted in the form requested by the Township, and shall include complete information with respect to the amounts of each recyclable material collected during the preceding quarter.

#### SECTION 8: Unlawful Disposition of Recyclables

It shall be unlawful for any person to dispose of any recyclable material or item as defined herein by comingling said recyclables with other solid waste not required to be recycled or to dispose of such items in other places that will not ensure that said items are recycled. Such action shall be a violation of this Ordinance subject to enforcement and penalty as set forth in Article IV hereof.

#### SECTION 9: Unlawful Disposition of Solid Waste

It shall be unlawful for any person to deposit for collection any solid waste, including bulky items, not generated from the address from which collection is made or to bring

any solid waste into the Township or from one address to another in the Township for the purpose of taking advantage of the collection service or to avoid the cost of collection. Such action shall be a violation of this ordinance subject to enforcement and penalty as set forth in Article IV hereof.

#### SECTION 10: Alternative Means of Disposal

##### A. Donations or Sale of Recyclables

Notwithstanding any provision herein to the contrary, any Township resident or owner of property in the Township may donate or sell any recyclable item or material to any other person or properly permitted and licensed processing center, whether or not for a profit. The donated or sold recyclable items or material, however, shall not be collected by the recipient or purchaser thereof from the location where it is placed for collection unless with prior written permission from the Township.

#### SECTION 11: Exclusions

##### A. Normal Farming Operations

Nothing contained herein shall prohibit a farmer, or anyone engaged in what is commonly referred to as farming practices, including composting or spreading of manure or other produced agricultural wastes not otherwise prohibited or regulated for land applications from continuing such operations.

##### B. Hazardous or Residual Wastes

The provisions of this Ordinance do not apply to anything but the storage, collection, transportation and disposal of solid waste, recyclables and bulky waste and not apply therefore to hazardous or residual waste as defined by the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act and its Amendments. All hazardous or residual waste must be disposed of in compliance with applicable State and Federal laws and regulations.

### ARTICLE IV. PENALTIES FOR VIOLATION AND ENFORCEMENT

#### SECTION 1: Penalties

Any person violating any of the provisions of this Ordinance, or, who assists in the violation of this Ordinance, shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), plus cost of prosecution, including reasonable attorney's fees, and in default of payment of such fine, costs and/or attorney's fees, to imprisonment for a term not exceeding thirty (30) days. Every violator of the provision of this Ordinance shall be deemed guilty of a separate offense

each and every day such violation continues and shall be subject to the penalty imposed by this Section for each and every separate offense.

It shall be in violation of this Ordinance for any person to interfere with a Township Licensee(s) or Hauler in its performance of collecting, transporting and/or disposing of recyclable materials and/or solid waste.

Any premises on which conditions of waste exist causing it to be a public nuisance is prohibited. Failure to resolve or remedy said public nuisance after receiving written notice to do so shall be deemed a violation of this Ordinance punishable as herein provided.

The presence of any articles containing a person's name among solid waste or recyclables shall create a rebuttable presumption that said solid waste or recyclables are the property of the person whose name is found therein. This presumption can only be rebutted by clear and convincing evidence to the contrary

Nothing herein is intended to preclude the Township's exercise of any additional remedies in law or equity, for noncompliance with this Ordinance.

## SECTION 2: Enforcement

The Township Administrator/Secretary, Manager, Zoning Officer and/or Code Enforcement Officer, or any other agent designated by the Board of Supervisors of the Township of South Middleton shall have the authority to enforce the provisions of this Ordinance.

## ARTICLE V. ESTABLISHMENT OF RECYCLING AWARENESS PROGRAM

The Township of South Middleton shall establish a comprehensive and sustained public information and education program concerning the recycling program, features and requirement in accordance with Act 101.

## ARTICLE VI. PROHIBITION AGAINST BURNING

No burning of recyclable materials shall be done or permitted by any owner, occupier, or user of property.

Burning of non-recyclable solid waste shall be done and permitted only as authorized by law or regulation of the Township and the Commonwealth of Pennsylvania or its regulatory agencies.

ARTICLE VII. SEVERABILITY

If any section, subsection, clause, or phrase of this Ordinance is held unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this Ordinance.

ARTICLE VIII. EFFECTIVE DATE

The effective date of this Ordinance shall be March 1, 2010.

ARTICLE IX. REPEALER

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

ENACTED AND ORDAINED THIS 8th day of October, 2009.

BOARD OF SUPERVISORS OF  
SOUTH MIDDLETON TOWNSHIP,

\_\_\_\_\_  
Bryan A. Gembusia, Chairman

\_\_\_\_\_  
Walter G. Reighard, Vice Chairman

\_\_\_\_\_  
James N. Baker

\_\_\_\_\_  
Ronald L. Reeder

\_\_\_\_\_  
Thomas E. Faley

ATTEST:

\_\_\_\_\_  
Sandra A. Quickel, Township Secretary