

**Model Municipal Recycling Ordinance**

The Council of the \_\_\_\_\_ of \_\_\_\_\_, in the County of \_\_\_\_\_, does ordain:

Section \_\_\_\_, Chapter \_\_\_\_, Recycling and Solid Waste shall be deleted and replaced and amended in its entirety so as to read:

Chapter \_\_\_\_\_

Definitions

Source Separation, Exemptions

Collection of Recyclable Materials

Residential Dwelling Compliance Requirements

Commercial Establishment Compliance Requirements

New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties

Prohibition of the Collection of Waste Mixed with Recyclable Materials

Enforcement

Violations and Penalties

**Definitions**

Commingled- means a combining of non-putrescible source-separated recyclable materials for the purpose of recycling;

Commercial Use- means an activity involving the sale of goods or services carried out for profit;

Designated recyclable materials- means those materials designated within the Warren County District Solid Waste Management Plan to be source separated for the purpose of recycling. These materials include: (list those designated recyclable materials from the county recycling plan for the residential, commercial and institutional sectors);

Electronic waste- (to be included in those instances where a recycling program has been, or will be, established for these materials) shall mean a computer central processing unit and associated hardware including keyboards, modems, printers scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones;

Hotel - shall mean any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping

facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient or permanent guests.

This definition shall also mean and include any hotel, motor hotel, motel, or established guesthouse, which is commonly regarded as a hotel, motor hotel, motel, or established guesthouse, as the case may be, in the community in which it is located; provided, that this definition shall not be construed to include any building or structure defined as a multiple dwelling in this act, registered as a multiple dwelling with the Commissioner of Community Affairs as hereinafter provided, and occupied or intended to be occupied as such nor shall this definition be construed to include a rooming house or a boarding house as defined in the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) or, except as otherwise set forth in P.L.1987, c.270 (C.55:13A-7.5, 55:13A-7.6, 55:13A-12.1, 55:13A-13.2), any retreat lodging facility, as defined in this section.

Multifamily dwelling- means any building or structure of complex of buildings in which three or more dwelling units are rented or leased or offered for rental or lease for residential purposes (see NJSA 13:1E-99.13a.) except hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C.55: 13A-1 et seq.);

Municipal Recycling Coordinator- means the person or persons appointed by the municipal governing body and who shall be authorized to enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder.

Municipal solid waste (MSW) stream- means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of \_\_\_\_\_;

Recyclable material- means those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products;

Source-separated recyclable materials- means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

Source separation- means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

## Source Separation; Exemption from Source Separation Requirements

- A. Mandatory source separation: It shall be mandatory for all persons who are owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the municipality of \_\_\_\_\_, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises and shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the (municipality or department within the municipality) \_\_\_\_\_.
- D. Exemptions: Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this Chapter, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

## Collection of Recyclable Materials

The collection of recyclable material shall be in the manner prescribed as follows:

**(Note-as an alternative to below, simply describe those elements of the existing recycling program, including information as to the type of container to use, the location of the container for purposes of collection, during what hours the container may be placed for purposes of collections, etc.)**

- A. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after \_\_\_\_\_ of the day

immediately preceding the day of collection, but no later than \_\_\_\_\_ of the day of collection. After collection, any containers shall be removed from the curbside by no later than \_\_\_\_\_ of the day of collection.

- B. All receptacles or dumpsters shall be maintained in accordance with the Health Code of the municipality of \_\_\_\_\_. **(if no health code exists for this, ordinance can indicate that all containers shall be kept clean and safe manner.)**

### **Residential Dwelling Compliance Requirements**

- A. The owners/occupants of single family and two family dwellings shall be responsible for compliance with this Ordinance.
- B. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including the designation of a building/complex recycling coordinator who will oversee the recycling system which includes the collection of recyclable materials.
- C. Violations and penalty notices will be directed to the owner, occupant, or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every 6 months during their occupancy.

### **Commercial Establishment Compliance Requirements**

- A. All commercial, business, or industrial facilities shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. Annually, every business, institution, or industrial facility shall report to the municipal Recycling Coordinator the recycling activities undertaken at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service. The forms to be used will be provided by the municipal recycling coordinator.
- D. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease

and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

**New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties**

- A. Any application to the planning board of the municipality of \_\_\_\_\_, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:
- 1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and
  - 2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.
  - 3) Provisions shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.
- B. Prior to the issuance of a Certificate of Occupancy by the municipality of \_\_\_\_\_, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.

**Prohibition of the Collection of Waste Mixed with Recyclable Materials**

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.

- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.
- C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

### **Enforcement**

The municipal Board of Health, the Recycling Coordinator, the zoning officer, the building inspector, the housing officer, or other code enforcement officer, the police department, and the Warren County Department of Health are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

### **Violations and Penalties**

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$250, nor more than \$1000. Each day for which a violation of this Ordinance occurs shall be considered a separate offence. **(Note- municipalities are empowered to incorporate the provisions of N.J.S.A. 40:49-5 into their Ordinance. This provision may be viewed at the New Jersey legislative website).** It is shown below.

*”40:49-5 The governing body may prescribe penalties for the violation of ordinances it may have authority to pass, by one or more of the following: imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days.*

*The governing body may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.*

*The governing body may prescribe that for the violation of an ordinance pertaining to unlawful solid waste disposal at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$2,500 or a maximum penalty by a fine not exceeding \$10,000.*

*The court before which any person is convicted of violating any ordinance of a municipality shall have power to impose any fine, term of imprisonment, or period of community service not less than the minimum and not exceeding the maximum fixed in such ordinance.*

*Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.*

*Any municipality which chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance may waive the additional fine by ordinance or resolution.*

*Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the county jail or place of detention provided by the municipality, for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days.*

*Any municipality that chooses to impose a fine in an amount greater than \$1,250 upon an owner for violations of housing or zoning codes shall provide a 30-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.*

*Amended 1953, c.37, s.175; 1968, c.30; 1983, c.410, s.1; 1987, c.411, s.1; 1989, c.114, s.1; 2001, c.274; 2003, c.231, s.6; 2005, c.269, s.1.”*

Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program including enforcement and education.

#### **Severability, Effective Date**

A. In the event that it is determined, by a Court of competent jurisdiction, that any provision or section of this Ordinance is unconstitutional, all other sections and provisions shall remain in effect. This Ordinance shall take effect immediately, unless otherwise provided by Resolution of the governing body.

