

**TOWNSHIP OF BURLINGTON**

**ORDINANCE  
05-OR-032**

**AN ORDINANCE TO AMEND THE ORDINANCES OF THE TOWNSHIP OF  
BURLINGTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY AND  
SPECIFICALLY SECTION 17:9 (Amending the Recycling Ordinance)**

**WHEREAS**, the New Jersey Solid Waste Management Act ("SWMA"), 13:1E-1 et. seq., as amended by P.L. 1987, c.102, requires each municipality with the State of New Jersey to adopt an Ordinance or Ordinances governing separation and collection of certain recyclable materials; and

**WHEREAS**, the Burlington County District Solid Waste Management Recycling Plan ("County Plan"), as adopted by the Burlington County Board of Chose Freeholders ("County") and approved by the New Jersey Department of Environmental Protection ("DEP") pursuant to SWMA, also requires each municipality within the County to adopt an Ordinance governing separation and collection of recyclable materials designated by the County Plan or the Division of Solid Waste Management ("DSWM"); and

**WHEREAS**, pursuant to the County Plan, DSWM has prepared and distributed a model Ordinance in a form substantially similar to this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP OF BURLINGTON, COUNTY OF BURLINGTON, AND STATE OF NEW JERSEY, THAT SECTION 17:9 OF THE ORDINANCES IS HEREBY REPEALED IN ITS ENTIRELY AND THE FOLLOWING AMENDMENTS CONSTITUTE THE NEWLY ENACTED RECYCLING ORDINANCE FOR BURLINGTON TOWNSHIP AND PROVIDE AS FOLLOWS:**

**Section 1.** The Township of Burlington finds that the reduction of the amount of solid waste and conservation of recyclable materials is an important public concern and is necessary to implement the requirements of SWMA and the County Plan. The recycling of certain materials from the residential, commercial and institutional establishments in this Municipality will reduce the need for landfills and conserve existing landfill capacity, facilitate the implementation and operation of other forms of resource recovery, and conserve natural resources.

**Section 2.** This Ordinance is adopted pursuant to Sections 6,9 and 14 of P.L. 1987, c. 102 (effective April 20, 1987), N.J.S.A. 40:48-2, N.J.S.A. 40:66-1 and N.J.S.A. 40:49-2.1.

**Section 3.** As used in this Ordinance, the following definitions shall apply:

"Cans" shall mean empty food, beverage and aerosol containers comprised of aluminum, tin, steel or a combination thereof, which formerly contained only non-hazardous substances or such other substances as have been approved for recycling by DSWM .

"Cardboard" shall mean all corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but excluding plastic; foam, wax-coated or soiled corrugated cardboard.

"Commercial" refers to any person or other entity operating a business, trade, industry or other activity which is carried on for profit.

"Commingled" shall mean source separated, nonputrescible recyclable materials that have been mixed at the source of generation (i.e., placed in the same container).

"Condominium complex" shall be defined in accordance with N.J.S.A. 46:8B1 et seq.

"County" shall mean the County of Burlington, State of New Jersey.

"County Plan" shall mean the District Solid Waste Management Plan for Burlington County as approved by the New Jersey Department of Environmental Protection.

"Designated recyclable materials" shall mean those recyclable materials to be source separated in this municipality, including but not limited to, antifreeze, cellular telephones, construction and demolition debris consisting of asphalt, concrete, and untreated wood waste, electronic waste, metal, glass, lead acid batteries, fluorescent light bulbs and ballasts, leaves, motor oil, paper, plastic bottles, paperboard packaging, corrugated and other cardboard, newspaper, magazines, or high-grade office paper, rechargeable batteries, toner and printer cartridges and tires.

"Disposition" or "disposition of designated recyclable materials" means the transportation, placement, reuse, sale, donation, transfer or temporary storage for a period not exceeding six months, or for a period of time as mandated by law, of designated recyclable materials for all possible uses except for disposal as solid waste;

"Electronic Waste" shall mean computer hard drives, monitors, keyboards, modems, printers, fax machines, VCR's and Cell Phones.

"Glass" shall mean all clear (flint), green, and brown (amber) colored glass containers. Glass shall not include crystal, ceramics, light bulbs and plate, window, laminated, wired or mirrored glass.

"Institutional" refers to any person or other entity, either public or private, either for profit or nonprofit, who operates for educational, charitable or other public purpose.

"Mobile home park" means any park, including a trailer park or camp, equipped to handle mobile homes sited on a year-round basis as defined in N.J.S.A. 2A: 18-61.7 et seq.

"Multifamily dwelling" means any building or structure or complex of buildings or structures in which five or more dwelling units are rented or leased or offered for rental or lease for residential purposes 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 Drop-Off" shall mean any facility designed and operated by this municipality solely for the receiving and storing of source-separated, nonputrescible metal, glass, paper, plastic containers and cardboard. (The municipality may amend this language to add additional materials or restrict the type of generator that is permitted to utilize the dropoff)

"Municipality" shall mean the Township of Burlington located within the County of Burlington, State of New Jersey.

"DSWM" shall mean the Burlington County Division of Solid Waste Management, its successors and assigns.

"Paper" shall mean all chipboard, newspaper, fine paper, bond paper, office paper, magazines, paperback books, school paper, catalogs, computer paper, telephone books and similar cellulosic material whether shredded or whole, but excluding wax paper, plastic or foil-coated paper, thermal fax paper, carbon paper, NCR paper, blueprint paper, food contaminated paper, soiled paper and cardboard.

Plastic bottles shall mean all bottles that are labeled as made from polyethylene terephthalate (PET) and coded as #1 and high density polyethylene terephthalate (HDPE) and coded as #2. Specifically excluded are bottles that formerly contained hazardous materials, including, but not limited to paint, motor oil, and pesticides.

"Person" shall mean any individual, firm, partnership, corporation, association, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other governmental agency of any other entity or any group of such persons, which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a fine, penalty or imprisonment, the term "person" shall include the officers and directors of a corporation or other legal entity having officers and director.

"Recyclable material" shall mean a material which would otherwise become solid waste, which can be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

"Recycling" shall mean any process by which materials, which would otherwise become solid waste, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

"Recycling dropoff" shall mean any facility designed and operated solely for the receiving and storing of source-separated, nonputrescible metal, glass, paper, plastic containers and cardboard.

"Resident" shall mean any person residing within the Municipality on a temporary or permanent basis, but excluding persons residing in hotels or motels.

"Solid Waste" shall mean garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

"Source separate" shall mean to separate recyclable materials from the solid waste stream at the point of generation.

"SWMA" shall mean the New Jersey Solid Waste Management Act, as amended.

All other terms and phrases shall be as defined in the SWMA, regulations promulgated thereunder and the County Plan, unless content clearly requires a different meaning.

#### Section 4. Establishment of Curbside Program

There is hereby established a program ("curbside program") for the separate collection of recyclable material from all non-physically disabled residents of the Municipality. Designated recyclables for the curbside program established pursuant to this section shall consist of the following materials: paper, cardboard, glass, cans, plastic bottles and other recyclable materials as designated by the Municipality at any time, thirty (30) days after designation and publication of notice in a newspaper of general circulation.

Said curbside program shall not apply to any multifamily complex of twenty (20) or more units, condominium complex of twenty (20) or more units or mobile home park of twenty (20) or more units, or to any commercial or institutional establishment unless approved by DSWM.

Collections of recyclable materials pursuant to this section shall be in accordance with a schedule of recycling collection areas and dates to be publicly advertised by the Municipality or County.

All residents of the Municipality within the area serviced by the curbside program established pursuant to this section shall source separate all designated recyclables and shall place them at the side of the road fronting their residence in the manner designated by Section 5 of this Ordinance and on the date specified for collection by the schedule published by the Municipality or County.

#### **Section 5. Requirements Applicable to Source Separation and Collection of Designated Recyclables for the Curbside Program**

All recyclables placed by residents for collection pursuant to the curbside program established pursuant to Section 4 of this Ordinance shall be prepared for collection in accordance with the following:

Cardboard and Paper shall be placed in paper bags or tied in bundles not exceeding thirty-five (35) pounds in weight nor exceeding one (1) foot in thickness.

Glass containers and plastic bottles shall have caps and lids removed.

Glass containers, cans and plastic bottles shall be rinsed free of contaminants.

Cans, glass containers and plastic bottles shall be placed in a recycling container, to be provided by the Municipality. Plastic and/or paper garbage bags shall not be utilized as containers for cans, glass containers, and plastic bottles. No material shall be placed at the roadside earlier than the evening of the day preceding a scheduled collection day. Material must be placed at the roadside by 6:00 A.M. on the scheduled collection day.

#### **Section 6. Establishment of Public Dropoff Program**

There is hereby established a program ("Public Dropoff Program") for the source separation and delivery to a recycling dropoff of paper, cardboard, glass, cans and plastic bottles from all residents located in this Municipality, with the exception of multifamily complexes, condominium complexes and mobile home parks.

Other recyclable materials may be designated by the Municipality at any time, thirty - (30) days after said designation and publication of notice in a newspaper of general circulation.

#### **Section 7.A Establishment of Dropoff Program for Multifamily Complexes, Condominium Complexes and Mobile Home Parks**

There is hereby established a program ("Private Dropoff Program") for the source separation and delivery of designated recyclable materials to a recycling dropoff(s) including paper, cardboard, glass, cans and plastic bottles from all residents of multifamily complexes, condominium complexes and mobile home parks comprised of twenty (20) or more units within this Municipality.

The owner or manager of every multifamily complex, condominium complex and mobile home park within this Municipality shall purchase recycling containers, construct and maintain, in a neat and sanitary condition, recycling dropoff(s), to receive all designated recyclables generated by residents of the complex or mobile home park pursuant to the guidelines of the DSWM.

In cases where a condominium association exists, the condominium association shall be responsible for purchase of recycling containers and construction and maintenance in a neat and sanitary condition of the recycling dropoff(s) pursuant to the guidelines of the DSWM.

The owner or manager of every multifamily complex, condominium complex and mobile home park who elects not to participate in the Burlington County Regional Recycling Program shall arrange for the collection and recycling of all designated recyclables from said dropoffs (s) at their expense.

The number and design of the recycling dropoffs required by this section for each multifamily complex, condominium complex and mobile home park shall be consistent with guidelines provided by the DSWM.

Other recyclable materials as designated by the Municipality at any time thirty (30) days after said designation and publication of notice in a newspaper of general circulation.

#### Section 8.

#### Requirements Applicable to Source Separation and Placement of Designated Recyclables in Recycling Dropoffs.

Designated recyclables required to be placed in recycling dropoffs pursuant to Section 6 or Section 7 of this Ordinance shall be consistent with guidelines provided by DSWM.

#### Section 9. Mandatory Commercial and Institutional Source Separation Program

All persons generating municipal solid waste within this Municipality through the operation of a commercial or institutional establishment shall source separate and arrange for collection of all designated recyclables within thirty (30) days of the effective date of this Ordinance.

Designated recyclables for the mandatory commercial and institutional source separation program shall consist of the following materials:

Anti-Freeze, batteries (lead acid and rechargeable), cardboard, construction and demolition waste, fluorescent light bulbs and ballasts, electronic waste, glass, plastic bottles, cans; including those generated at convenience stores; leaves, motor oil, paper, toner and printer cartridges.

Other recyclable materials as designated by this Municipality at any time (30) days after said designation and publication of notice of the designation in a newspaper of general circulation.

The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the individual(s) responsible for the provision of solid waste or recycling services including the provision or maintenance of litter receptacles located on the property of any commercial or institutional establishment generating designated recyclables.

The management individual(s) responsible for the provision of recycling services as herein defined, shall submit to the Municipal Recycling Coordinator by the First Day of February of each year, documentation verifying the previous year's total recycling (expressed by weight) for each material recycled. Documentation shall take the form of a letter or report issued by the recycling service provider or end market to the generator of the recycled material. Weight slips or paid invoices must be maintained by the generator for inspection if requested by this Municipality, County or State for a period not to exceed five (5) years.

Any solid waste or recycling service provider shall submit to the Municipal Recycling Coordinator, by the First Day of February of each year, documentation verifying the previous year's total recycling (expressed by weight) for each material recycled on forms as prescribed by the Office of Solid Waste Management.

#### Section 10. Unlawful Activities; Nuisance

It shall be unlawful for:

any person, other than those persons authorized to collect any designated recyclable which has been placed at the roadside for collection or within a recycling dropoff pursuant to this Ordinance;

any person to violate, cause, or assist in the violation of any provision of this Ordinance or any provision of the County Plan concerning recycling;

any person to place or to cause to be placed any material other than a designated recyclable in or near a recycling dropoff;

any person to hinder, obstruct, prevent or interfere with this Municipality, the County or any other authorized persons in the performance of any duty under this Ordinance or in the enforcement of this Ordinance.

any person to offer to collect or knowingly collect designated recyclable materials in any manner except as source separated recyclable materials as defined herein.

All unlawful conduct set forth in Section 10 (a) shall constitute a public nuisance.

#### Section 11. Non-collection of Solid Waste Contaminated by Designated Recyclables

This Municipality or any other person collecting solid waste generated within this Municipality shall refuse to collect solid waste from any person who has failed to source separate recyclables designated under any applicable section of this Ordinance.

#### Section 12. Other Means of Disposal

Notwithstanding anything herein to the contrary, any resident of the Municipality may donate or sell any recyclable to any other person, whether operating for a profit or not for profit, provided, however, that the person receiving the recyclables shall not, under any circumstances, collect the donated or sold material from an established recycling collection route or from a recycling dropoff without prior written permission from this Municipality for such collection. Permission for such collection shall not be given for any day other than a Saturday or Sunday and, in no case, shall such permission be given to collect recyclables from a recycling dropoff.

#### Section 13. Non-interference with Existing Contracts

Nothing contained in this Ordinance shall be construed to interfere with or in any way modify the provisions of any existing contract which is consistent with N.J.S.A. 13:1E 29 and in force in the Municipality on the effective date of this Ordinance.

No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this Ordinance, unless such renewal or such contract shall conform to the requirements of this Ordinance.

#### Section 14. Enforcement

A Municipal Recycling Coordinator and/or the local Code Enforcement Official shall be appointed to serve by the Municipality as the Enforcement Officer for this Ordinance.

Said Municipal Recycling Coordinator/Code Enforcement Officer shall be responsible, under the direction of the Municipality, enforcement of all recycling requirements of this Ordinance.

In addition to the Municipal Recycling Coordinator or Code Enforcement Officer, the Burlington County Health Department and the DSWM are hereby appointed as Enforcement Officer(s) for enforcement of all recycling requirements of this Ordinance.

Enforcement of this Ordinance shall be commenced in the Superior Court or in the municipal court of the Municipality, and penalty or fine shall be collected with costs in a summary civil proceeding. Any penalties or fines collected in an enforcement action shall be paid to the Municipality when such action is brought by the Municipality. Any penalties or fines collected in an enforcement action shall be paid to the Treasurer of Burlington County when such action is brought by the Burlington County Health Department or the Office of Waste Management.

### Section 15. Penalties

Any person who violates the provisions of this Ordinance shall upon conviction thereof in a proceeding before a court of competent jurisdiction be subject to the following fines:

**Residential Recycling Violation:** A fine of not less than twenty-five dollars (\$25.00) and not more than one thousand dollars (\$1,000.00).

**Commercial or Institutional Violation:** A fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00).

For any person who offers to collect recyclable in any manner except as prescribed within this ordinance: A fine of not less than one thousand dollars (\$1000.00) and not more than five thousand dollars (\$5000.00).

For any solid waste or recycling service provider who fails to report as required within this ordinance: A fine of not less than five hundred dollars (500.00) and not more than one thousand dollars (\$1000.00).

Each continuing day of violation of this Ordinance shall constitute a separate offense.

### Section 16. Injunctions; Concurrent Remedies

In addition to any other remedy provided in this Ordinance, this Municipality may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this Ordinance for an injunction to restrain a violation of this Ordinance or the County Plan. In addition to an injunction, the court may impose penalties as authorized by Section 15 hereof. The penalties and remedies prescribed by this Ordinance shall be deemed concurrent. The existence, exercise or any remedy shall not prevent this Municipality or the County from exercising any other remedy provided by this Ordinance or otherwise provided by law or equity.

### Section 17. Construction

The terms and provisions of this Ordinance are to be liberally construed, so as best to achieve and to effectuate the goals and purposes hereof. This Ordinance shall be construed in pari materia with the SWMA and the Plan.

### Section 18. Severability

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, said invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or application of this Ordinance.

### Section 19. Repealer

All provisions of any other ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed.

### Section 20. Effective Date

This Ordinance shall become effective upon final adoption and publication in the manner prescribed by law.

This Ordinance was introduced at a meeting of the Township Council in the Township of Burlington held on September 27, 2005 and will be considered for final passage after a public hearing at a regular meeting of the Township Council to be held on October 11, 2005 at the Township Municipal Building, Burlington Township, New Jersey at 7:00 P.M.

This will certify that the foregoing Ordinance was passed by a majority of the Burlington Township Council on October 11, 2005.

  
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**ANTHONY J. CARNIVALE, JR., RMC**  
**Municipal Clerk**

  
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**SANDRA V. STEWART**  
**President of Council**