

NEWTON TOWNSHIP

ORDINANCE NO. 1-2004

**AN ORDINANCE REGULATING
THE SOURCE AND COLLECTION OF
MUNICIPAL SOLID WASTE
PLACED FOR DISPOSAL WITHIN THE
CORPORATE LIMITS OF NEWTON TOWNSHIP**

WHEREAS, the Newton Township Board of Supervisors is desirous of regulating the source, collection, and disposal of Municipal Solid Waste ("MSW") within the corporate limits of Newton Township ("Township"); and

WHEREAS, it is necessary and essential as a matter of public necessity to provide for periodic collection and disposal of solid waste, in order to promote the health, safety, welfare of the public, and for the convenience of the public; and

WHEREAS, the Township is desirous of contracting for the collection, removal and disposal of solid waste as a means to achieve the above stated goals;

WHEREAS, the Township has also determined it to be in the best interest of the Township to contract for the recycling, transportation, collection and storage of recyclable materials.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Newton Township, Lackawanna County, Commonwealth of Pennsylvania, and it is hereby ORDAINED and ENACTED by the authority of the Township as follows:

SECTION 1. PURPOSE: It is the purpose of this Ordinance to protect the public health, safety and welfare from the hazards and threats of the unauthorized and/or improper depositing, collection, removal and disposal of MSW and recyclable materials as provided in the Second Class Township Code, and to provide for a Designated Contractor to accomplish the foregoing and to carry out the duties of the Township under, and pursuant to the authority of, the Pennsylvania Solid Waste management Act of 1980 and the Municipal Waste Planning, Recycling and Waste Reduction Act.

SECTION 2. DEFINITIONS OF TERMS: The following words and phrases shall have the meanings set forth below when used in this Ordinance, unless the context clearly indicates otherwise:

- A. "Bags" shall mean plastic sacks designed to store solid waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents should not exceed 35 pounds.
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to Federal or State Law.

- J. "Industrial Establishment" shall mean any establishment engaged in manufacturing or processing, including, but not limited to, factories, foundries, mills, processing plants, refineries and the like.
 - K. "Institutional Establishment" shall mean any establishment engaged in service to persons, including, but not limited to, hospitals, nursing homes, orphanages, schools and universities.
 - L. "Leaf Waste" shall mean leaves from trees, bushes, shrubs and other vegetative plants.
 - M. "Mixed Use Building" shall mean a building whose primary use is residential, but which may also contain a subordinate nonresidential use in the building. If the nonresidential use shall occupy 30% or less of the first floor of the structure, then the building shall be deemed residential use for the purpose of this Ordinance; if, however, the non-residential use occupies more than 30% of the first floor of the structure, then the entire structure shall be deemed a commercial use.
 - N. "Municipal Solid Waste" ("MSW") shall mean any garbage, refuse, industrial lunchroom or office waste, and/or any other material, including solid, liquid or semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial, industrial and/or institutional establishments, and/or from community activities, and trace amounts of hazardous waste normally found in household trash, garbage or refuse, and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial, industrial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility (Pennsylvania Solid Waste Management Act 97, Sec. 103). The term does not include source-separated recyclable materials or "leaf waste" as defined by Act 101, but may include grass clippings.
 - O. "Person" shall mean any natural individual, person, association, partnership, co-partnership, firm, corporation, institution, cooperative enterprise, township, borough, county, city, state, municipality, and/or municipal authority, or in any other legal entity whatsoever recognized by law as the subject of rights and duties. In any provisions of this act prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "individual" shall include, by way of explanation and not limitation, the officers and directors of any corporation
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- B. "Commercial Establishment" shall mean any establishment or property engaged in non-manufacturing or non-processing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers, apartment buildings of five or more residential units, theaters, churches, institutions and schools.
- C. "Container" shall mean a receptacle, either round, square or rectangular, with a capacity of greater than 20 gallons but less than 35 gallons, constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the containers by vectors. The mouth of the container shall have a diameter greater than or equal to that of the base. The total weight of any container and its contents should not exceed 60 pounds.
- D. "Designated contractor" is one who has entered into a contract with or has otherwise been granted a license or the authority of the Township for the specific purpose of collecting, conveying, transferring, or transporting garbage, refuse, rubbish, or solid waste.
- E. "Disposal" shall include incineration, deposition, injection, dumping, spilling, leaking or placing of Municipal Solid Waste into, on and/or about the land and/or water in such a manner that the waste or a constituent of the waste enters the environment, is admitted into the air, and/or is discharged into the waters of the Commonwealth of Pennsylvania.
- F. "Disposal Site" shall mean any State permitted site, facility, location, area or premises to be used for the disposal of Municipal Solid Waste.
- G. "Dwelling" shall mean any building or portion thereof designed or used exclusively as a residence or sleeping place of one or more persons, not including a hotel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house or boarding house.
- H. "Dwelling Unit" shall mean one (1) or more rooms in a dwelling, including a Kitchen or Kitchenette, and sanitary facilities in a dwelling, which room or rooms are designed and arranged as a unit for occupancy by one person, two or more persons living together or not more than one (1) family, all for living and sleeping purposes.
- I. "Hazardous Waste" shall mean 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 that term is defined by or pursuant

or other legal entity having officers and directors.

- P. "Recyclable Materials" shall mean any materials specified by the Township to be recycled including source separated material defined by Act 101.
- Q. "Refuse" shall mean any material discarded by an individual and shall include, by way of explanation and not limitation, all perishable and non-perishable solid wastes (excluding body wastes) or other waste, rubbish, trash, garbage, solid matter, semi-solid matter, liquid matter, all contained gaseous matter, animal matter, vegetative matter, sludge, synthetic matter and ashes exclusive of all hazardous and industrial waste.
- R. "Residential Establishment" shall mean any premises utilized primarily as a residential dwelling unit including, but not limited to, homes and mobile homes. Apartments consisting of five or more residential dwelling units are considered commercial establishments; those containing four or less residential dwelling unit shall be considered residential establishments for the purpose of this Ordinance.
- S. "Township" shall mean the Township of Newton, a Second Class Township, located in Lackawanna County, Pennsylvania.
- T. "Transportation" shall mean the off-site removal of any Municipal Solid Waste generated or present at any time from the Township.
- U. "Yard Waste" shall mean trees, tree limbs, bushes, shrubs, and other vegetative plant waste generated by residential, municipal, commercial, industrial or institutional establishments.

SECTION 3. REGULAR PERIODIC COLLECTION AND/OR DISPOSAL OF ALL MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL: Every owner, lessee and occupant of any building, structure, premises, residential establishment, property or place of business (including commercial, institutional and industrial establishments) within Newton Township shall be responsible for the regular periodic collection and disposal of all Municipal Solid Waste and recyclable materials generated and/or produced on, about, from and/or within the property owned or occupied by that person, as required by this Ordinance.

SECTION 4. FREQUENCY OF COLLECTION

- A. No person shall accumulate, or permit or cause the accumulation of, MSW and/or recyclable
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materials in, on and/or about any building, structure, property, premises, residential establishment, or place of business (including commercial, institutional and industrial establishments) owned, leased or occupied by that person within Newton Township, except for the purpose of regular periodic collection and disposal pursuant to this Ordinance, which collection and disposal shall occur at intervals not less frequent than once every seven (7) days, or at such other times as may be designated by the Township.

B. All residential collection schedules shall be published regularly by Township or its Designated Contractor or Collector.

SECTION 5. STANDARDS FOR STORING SOLID WASTE

A. Solid waste, including bulky waste, shall be stored in a way to prevent the collection or accumulation of water and the attraction, harborage, or breeding of insects or rodents and so as to eliminate conditions harmful to public health or which may create fire or safety hazards, odors, unsightliness or public nuisance.

B. Solid waste shall be stored separately from hazardous materials, combustible refuse, and lawn clippings.

C. Storage containers shall be properly stored on the owner's, tenant's, or occupant's premises at all times except on days when the solid waste is scheduled for pick up.

D. Storage containers shall be kept tightly sealed and covered at all times.

E. Solid Waste shall not protrude or extend above the top of the storage container.

F. Newton Township, or its Designated Contractor or Collector, may specifically require special storage procedures to facilitate the collection and resource recovery (recycling) of certain waste materials.

G. Storage Containers

1. All solid waste shall be stored in containers that comply with the minimum standards established by the National Sanitation Foundation and as set forth in this Ordinance and as approved by Newton Township or its Designated Contractor or Collector.

2. Containers shall be used and maintained so as to prevent public nuisances.

3. Any person producing solid waste that is not included in the municipal recycling program shall provide a sufficient number of reusable or disposable storage containers to properly and safely store all solid waste generated between collection periods.

4. Reusable Containers

a. All reusable containers shall:

(1) Be provided by the owner, tenant, or occupation of the premises;

neither Newton Township nor any designated/approved collector shall be responsible for providing or required to provide reusable containers suitable for collection;

(2) Be constructed of durable watertight, rust, and corrosion resistant material such as metal, fiberglass, or plastic, and constructed in a manner as to be leak, weather, insect and rodent proof;

(3) Have an opening at the top with a diameter equal to or greater than its base;

(4) Have a tight fitting cover and suitable lifting handles to facilitate collection;

(5) Have a capacity of not less than 20 gallons, but not more than 35 gallons;

(6) Not weigh more than 60 pounds when full;

(7) Be kept as sanitary as possible and cleansed and disinfected by the owner, tenant, or occupant periodically to prevent the accumulation of liquid residues or solids on the bottom or sides; and

(8) shall not have sharp or ragged edges, or any other defect that may hamper collection or cause injury to collector's personnel.

b. Reusable containers that do not comply with any of the standards set forth above shall be immediately replaced by the owner, tenant, or occupant upon notice from the Municipality or its Designated Contractor or Collector.

5. Disposable containers

a. All disposable containers shall:

(1) Be either a plastic bag or sack that is designated for municipal waste disposal;

(2) Have ties at the top;

(3) Have a capacity of not more than thirty (30) gallons;

(4) Not weigh more than thirty five (35) pounds when filled;

(5) Have sufficient wall strength to maintain physical integrity when lifted by the top.

b. Disposable containers that do not comply with any of the standards set forth above shall be immediately replaced by the owner, tenant, or occupant upon notice from the Municipality or its Designated Contractor or Collector.

c. All MSW accumulated by owners or occupants of each residential property or

establishment shall be placed in containers, plastic bags and bundles ("Receptacles"), as hereinabove defined, for collection by the Township or its Designated Contractor or Collector. Receptacles shall be located at ground level and at a point on the curb line of the street so as to be reasonably accessible to the Township or its Contractor for collection.

6. Bulk containers

The type, size, and placement of any bulk containers shall be determined by the waste generator and solid waste collector, subject to the approval of the Municipality. At a minimum, bulk containers shall:

- (1) Be provided by the owner, tenant, or occupant of the premises;
- (2) Be constructed of durable watertight, rust, and corrosion resistant material such as metal, fiberglass, or plastic and constructed in a manner as to be leak, weather, insect and rodent proof; and
- (3) Have a tight fitting cover and suitable hoisting handles to facilitate collection; and
- (4) Shall be kept as sanitary as possible and cleaned by the owner, tenant, or occupant periodically.
- (5) Be maintained in a suitable and safe location that does not create a nuisance.

7. Storage racks for receptacles

a. If an owner, tenant, or occupant of a residence or multi-family residence, institution, commercial, or industrialized establishment, restaurant or hotel elects to use racks or holders for storage containers, such racks or holders shall:

- (1) Be made of durable metal or wood and
- (2) Have at least twelve (12) inches of clearance from the ground unless the base is made of concrete or another easily cleaned material.
- (3) Be placed in a safe and suitable location and manner so as not to constitute a hazard or nuisance.

H. Any person storing garbage, refuse, rubbish, or solid waste for collection shall comply with the following:

1. All garbage, refuse, rubbish, or solid waste that is not included in the municipal
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recycling program shall be thoroughly rinsed and drained of free liquid before placing in storage containers;

2. All garbage, refuse, rubbish, or solid waste that is perishable shall be wrapped securely in paper, plastic, or similar material or placed in a properly tied plastic bag.

3. All combustible waste should be separated from non-combustible waste.

4. Inorganic materials, e.g., scrap lumber or firewood, may be kept on private property provided that it is accumulated or stored at least twelve (12) inches above the surface (ground).

5. Bulk waste items such as furniture, automobile parts, machinery, appliances, and tires shall be stored in a manner that will prevent the accumulation or collection of water, the harborage of insects or rodents, safety hazards and fire hazards.

6. Newton Township or its designated representative may specifically require special preparation procedures to facilitate the collection and resource recovery (recycling) of certain waste materials.

SECTION 6. STANDARDS FOR COLLECTING SOLID WASTE

A. Place for collection

1. All garbage, refuse, rubbish, or solid waste shall remain in storage containers when placed at the collection point.

2. Storage containers placed for collection shall be placed:

a. At ground level and at a point on the curb line of the street or road adjacent to the property where collection is to occur so as to be reasonably accessible to the Township or its designated/approved contractor.

b. The collector or contractor shall pick up the storage containers at the front property line unless an agreement exists with the collector, with the Township's approval, to collect elsewhere.

3. No garbage, refuse, rubbish, or solid waste shall be placed for collection earlier than eight o'clock of the evening (8:00 p.m.) prior to the collection date.

4. All storage containers shall be promptly removed from the collection point with a reasonable period of time follow collection.

SECTION 7. ADMINISTRATION:

- A. Effective April 1, 2004, all MSW and recyclable materials generated by and/or accumulated on, about, from and/or within any Residential Establishment in Newton Township shall be stored and placed for periodic collection, and collected and disposed of by the Township or its Designated Contractor or Collector.
- (i) All entities other than Residential Establishments, including Commercial Establishments, shall be responsible for arranging, and required to arrange, for proper, regular periodic collection and disposal of MSW and Recyclable Materials produced on and/or by such establishments, which collection and disposal shall occur at intervals not less frequent than once every seven (7) days.
- B. For the period of April 1, 2004 to December 31, 2008 (Contract Period), the Township has contracted with APEX Waste Management ("Designated Contractor") to collect, transport, store, dispose of, and recycle (as applicable) MSW and Recyclable Materials generated, produced and accumulated in, on and/or about Residential Establishments within The Township.
- C. The Designated Contractor shall have the sole and exclusive license and privilege to provide residential municipal solid waste collection, removal and disposal services and recycling services, as provided in the aforesaid Contract, within the corporate limits of the Township, for the duration of the Contract and any extensions thereof.
- D. Any trucks, vehicles, or other equipment used by the collector for the collection or transportation of garbage, refuse, rubbish, or solid waste shall:
1. Comply with the requirements of:
 - a. Act 91 of 1980, commonly known as "Pennsylvania Solid Waste Management Act."
 - b. Act 101 of 1988, commonly known as "The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act."
 - c. Any other federal, state, or local law or ordinance;
 - d. Any other federal, state, or local department or agency rule or regulation;
 - e. Subject to inspection and approval by the Newton Township Supervisors
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or their agents.

2. Be watertight and enclosed or capable of being enclosed to prevent leakage, roadside littering, attraction of vectors; the creation of odors, and other nuisances;
3. Be operated and maintained in a clean and sanitary condition; and,
4. Display the name of business, business address, the name of the owner of the vehicle or conveyance, and the specific type of solid waste transported by the vehicle or conveyance.

F. The Newton Township Board of Supervisors may, from time to time, adopt and promulgate additional rules and regulations setting forth the terms, conditions and administrative procedures for collection and disposal of MSW and Recyclable Material, or otherwise delegate such responsibility to its Designated Contractor.

SECTION 8. COLLECTING AND TRANSPORTING SOLID WASTE:

- A. All solid waste shall be collected and transported so as to prevent public health hazards, safety hazards, and nuisances.
- B. All solid waste from Newton Township shall be transported only to an approved disposal site.
- C. Any vehicle transporting solid waste shall not be delayed or placed in a populated area for more than four (4) hours, except that this paragraph does not apply to days when collection is taking place in the township.
- D. Daily written logs of the quantities of solid waste that was transported, its destinations, and time of arrival at its destination shall be maintained by the person transporting the solid waste.
- E. Storage containers
 - a. The designated contractor shall place the cover on any reusable container after collecting the waste from that container.
 - b. The designated contractor shall handle the storage container carefully so as not to spill the contents or damage the container.

SECTION 9. PROHIBITION OF THE PLACEMENT OR TRANSPORTATION FOR COLLECTION OF MSW ORIGINATING OR GENERATED OUTSIDE OF THE CORPORATE LIMITS OF THE TOWNSHIP: No person(s), including but not limited to owners, occupants and lessees of property or refuse collector(s) shall:

- A. Place, or cause to be placed, or have present upon and/or about any property within the Township, any MSW, refuse, garbage, rubbish, recyclable materials or trash for collection and
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disposal by the Township or a Township Designated Contractor that originated or was/is generated outside of the corporate limits of the Township; or

- B. Transport, or cause to be transported, any MSW, refuse, garbage, rubbish, recyclable materials or trash into Newton Township for collection and disposal by the Township or a Township Designated Contractor, knowing or having reason to know that such material originated or was otherwise generated outside of the corporate limits of the Township.

The offenses set forth in subsection A and B are independent violations, and each violation of either subsection A. or B. hereof shall constitute a separate offense. Furthermore, without limiting the foregoing, owners, lessees, occupants, as well *as any* person or entity collecting or transporting MSW as described, shall be jointly and severally liable for offenses under subsections A. and B. hereof.

SECTION 10. PROHIBITION OF THE COLLECTION OR TRANSPORTATION OF MSW ORIGINATING OR GENERATED INSIDE THE CORPORATE LIMITS OF THE TOWNSHIP: With respect to Residential Establishments, effective April 1, 2004, no person(s), including, but not limited to owners, occupants, and lessees of property, or refuse collector(s)/ transporter(s), shall:

- A. Place, or cause to be placed, or have present upon any Residential Establishment within the Township, any MSW, refuse, garbage, rubbish or trash originated or generated inside of the corporate limits of the Township for collection and disposal by any person other than the Township or a Township Designated Contractor.
- B. Collect or transport, or cause to be collected or transported, any MSW, refuse, garbage, rubbish or trash from any Residential Establishment located within the Township, which, pursuant to this Ordinance, should otherwise be are held for collection and disposal by the Township or a Township Designated Contractor under Section 5, knowing or having reason to know that the same originated or was generated inside of the corporate limits of the Township.

The offenses set forth in subsection A and B are independent violations, and each violation of either subsection A. or B. hereof shall constitute a separate offense. Furthermore, without limiting the foregoing, owners, lessees, occupants, as well *as any* person or entity collecting or transporting MSW as described, shall be jointly and severally liable for offenses under subsections A. and B. hereof.

SECTION 11. OTHER PROHIBITED AND REGULATED ACTIVITIES:

- A. It shall be unlawful for any person to:
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1. Accumulate, bury, collect, convey, dispose of, pack, process, remove, store, transfer, or transport garbage, refuse, or other solid waste on private or public property located in Newton Township, except as provided for in this Ordinance;

2. Bury, collect, convey, dispose of, remove, or transport garbage, refuse, or other solid waste from private or public property located in Newton Township without being designated, licensed or otherwise authorized by Newton Township as a designated contractor (i.e., those entities or persons contracted with or designated by the Newton Township Supervisors to collect, convey, pack, transfer, or transport any garbage, refuse, or other solid waste), except as provided for in this Ordinance;

3. Scavage any items, materials, or things from any garbage, refuse, or other solid waste that is accumulated, buried, disposed, packed, prepared, processed, or stored on private or public property located in Newton Township, except as provided for in this Ordinance;

4. Salvage or reclaim any solid waste within the Municipality except at an approved and permitted resource recovery facility under Act 97 or Act 101, or as otherwise permitted by any applicable Commonwealth, Commonwealth Agency, Municipal, or Municipal Agency's laws, rules or regulations;

5. Discard, dispose, place, or throw any garbage, refuse, or other solid waste in or upon any alley, body of water, sewer inlet, sidewalk, or street private or public, located in Newton Township, except as provided for this Ordinance;

6. Bury, collect, convey, discard, dispose, process, or transfer a new or used lead acid battery in municipal solid waste;

7. Use or permit to be used any of their private property in Newton Township as a private accumulating, disposing, packing, preparing, processing, storing, transferring or disposal site for garbage, refuse, or other solid waste, except as provided for in this Ordinance;

8. To own or operate a municipal waste processing or disposal facility without a permit from the Department of Environment Resources;

9. Not to use such methods and facilities, as necessary to control leachate, runoff, discharges, and emissions from residual waste in accordance with the Department of Environmental regulations;

10. Not use such methods and facilities as are necessary to prevent the harmful or hazardous mixing of wastes;

11. Use such method and equipment, and facilities, as are necessary to store, collect, and/or transport solid waste in a manner that will adversely affect or endanger the environment, public health or welfare and safety;

12. Not to take immediate steps to contain and clean spills, litter or accidental discharge of solid waste and to notify the Department, pursuant to Department regulations, of any such spill,

litter or accidental discharge which occur on public highways, public areas, which may enter the waters of the Commonwealth;

13. Refuse, hinder, obstruct, delay or threaten any agent or employee of Newton Township in the course of performance of any duty under this Ordinance, including, but not limited to, entry and inspection under any circumstance;

14. Cause or assist in the violation of any provision of this Ordinance;

15. Accumulate, burn, bury, collect, convey, dispose of, dump, pack, process, remove, store, transfer, or transport garbage, rubbish, refuse, or other solid waste on Sunday.

B. The offenses set forth in subsection A are independent violations, and each violation of subsection A. hereof shall constitute a separate offense. Furthermore, without limiting the foregoing, owners, lessees, occupants, as well as any person or entity collecting or transporting MSW as described, shall be jointly and severally liable for offenses under subsection A. hereof. Furthermore, each day's continuance of a violation of subsection A shall constitute a separate offense.

SECTION 12. RESIDENTIAL FEES:

A. After March 31, 2004, each owner of any dwelling unit in any Residential Establishment within Newton Township shall be responsible for the payment of a MSW Collection and Disposal Fee and a separate Recycling Fee.

B. The applicable MSW Collection and Disposal Fees and Recycling Fees for a Residential Establishment shall be based on the following rates per dwelling per year:

[SEE ATTACHED FEE SCHEDULE]

The annual fees herein set forth above shall be payable in advance in four equal quarterly payments for each calendar quarter. Billing for each quarter shall be mailed out a month in advance or as close thereto as possible, i.e., on the first of December, March, June, and September each year, with the exception of the first billing which shall be on April 1, 2004. Fees shall be paid by the owner of the dwelling unit, and shall be made payable to and forwarded directly to APEX Waste Management.

Bills for service shall be mailed to the address specified on the Newton Township street list unless and until a different address is specified by the owner or user of the property to the Township. It is the responsibility of each owner of any dwelling unit in a Residential

Establishment to notify the Township of a correct, current address for billing purposes, and to update and/or correct the address as necessary. Failure to receive a bill as a result of incorrect and/or non-current address, and/or refusal to accept or receive a bill mailed to a correct address, shall not excuse nonpayment of any applicable fee or extend the time for payment.

- C. Any fee unpaid for thirty days shall be considered delinquent, i.e. payment is due no later than 30 days from the billing date, i.e., normally on the first day of January, April, July and October in each year. A late charge of (\$0) Dollars per dwelling unit shall be added to each delinquent account that remains unpaid for thirty (30) days after the due date. In the event fees remains unpaid for thirty (30) days after the due date, such delinquent accounts will be subjected to civil and/or criminal actions in the Courts of Lackawanna County for collection of the fee, late charges, fines and costs in addition to any and all other appropriate remedies available to the Township or its Designated Contractor. In addition, the Township or its Designated Contractor may terminate service to any property with respect to which any fee imposed hereby is unpaid until all such fees, together with interest; late charges and penalties are paid.

D). Exonerations:

1. Any dwelling unit which is totally unoccupied for an entire calendar quarter, and which generates no MSW for that calendar quarter, shall be exonerated from the charges set forth in this Ordinance. Such exoneration shall be granted only after the owner has filed an affidavit with the Township certifying that such dwelling unit will be totally unoccupied and that no MSW will be generated for the applicable quarter. (For purposes of this section, a "quarter" shall be defined as any one of the following three (3) month calendar periods: (1) January, February, March, and (2) April, May, June, (3) July, August, September, and (4) October, November, December.
 2. Any dwelling unit of a Residential Establishment may dispose of MSW, bulky waste and leaf waste generated by and/or thereon upon presentation of satisfactory evidence that such disposal will be accomplished in an appropriate manner without fees, charges or other valuable consideration or exchange. Such exoneration shall be granted only after the owner has filed an affidavit with the Township certifying the method, manner, place, and frequency of disposal, together with a statement that same is being done without fees, charges or other
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valuable consideration or exchange. Such claim for exoneration shall be filed with the Township Secretary at the Municipal Building, 1528 Newton Ransom Blvd., Clarks Summit, no later than ten (10) days prior to the quarter in which exoneration is claimed. Persons granted exoneration hereunder shall not place MSW, bulky waste or leaf waste for collection by the Township or its Designated Contractor without first filing a written statement with the Township Secretary no later than ten (10) days prior to the date in which he or she desires reinstatement of service.

E) Discounts

Senior Citizen Discount: Any owner/occupant of a dwelling unit located in a residential establishment shall be entitled to a senior citizens discount of 35% off the regular collection fee provided the following conditions are satisfied: (1) There are no more than a total of two persons residing in the Residential establishment, and (2) At least one of the persons residing in the residential establishment is sixty-two years of age or older. In such case, the occupants of the residential establishment shall be entitled to place no more than one bag of MSW for collection during any particular collection period, exclusive of leaf, bulky waste and recyclables as defined in this Ordinance, at the discounted rate. An additional charge will apply for collection of any MSW in excess of the one bag limit, in which case the occupants of the residential establishment must make prior arrangements and payment for collection of any MSW in excess of the one bag limit.

Low Income Discount: Any owner or occupant of a residential establishment with a total, aggregate household gross income among all persons who reside in therein shall be eligible for a 50% discount off the established fee for collection of MSW pursuant to this Ordinance. Gross Income for the purpose of this discount shall be defined by the Internal Revenue Code 26 U.S.C.A. Section 61(a), as may be amended. The Township may require proof of income, as it determines necessary, in order to process and determine any request for this discount.

SECTION 13. AUTHORITY TO REFUSE TO COLLECT, ABATE AND CHARGE FOR THE REMOVAL OF UNAUTHORIZED MSW: The Township or its Designated Contractor shall have the authority to refuse municipal collection and disposal service to any premises on which unauthorized

MSW or recyclable materials are placed for collection and disposal in violation of the terms of this Ordinance. Within ten (10) days after the notice from the Township to do so, the owner, lessee or occupant shall jointly or severally remove, abate and/or otherwise correct the violation. If that person fails, neglects or refuses to abate the violation within the time limit, the Township shall have authority, but not the responsibility, in person or by its agents and/or employees, to remove or abate the violation, and, in so doing, shall have authority to enter upon the property of the person in default. Thereupon, the Township or its Designated Contractor shall be entitled to reimbursement for the cost of the removal and any additional costs and expenses associated with the abatement or removal from the person who created, continued, caused, or maintained the violation and/or permitted it to exist, that person having failed, neglected or refused to remove or abate the violation, with an additional amount of ten (10%) percent, in the manner provided for the collection of the municipal claims, or by an action in *assumpsit*; provided, that the cost and expense shall be in addition to any penalty imposed under Section 10 of this Ordinance. Additionally, failure to provide notice in this section shall not be a defense to violations of Sections 7 and 8 hereof.

SECTION 14. PENELTY FOR VIOLATING ORDINANCE: Any individual who violates any provisions of this Ordinance shall upon conviction be sentenced to pay a fine not exceeding Three Hundred (\$300.00) Dollars for each separate offense, together with costs of prosecution, and in default of payment of such fine and costs, be sentenced to imprisonment for not more than thirty (30) days. A separate offense shall be deemed committed on each day during or in which a violation occurs or continues. Conviction shall not preclude the filing of any civil or equitable action against the violator by either the Township or its Designated Contractor.

SECTION 15. INSPECTION OF MSW: Any person(s) who shall place at curbside, or otherwise, for collection or disposal any MSW, refuse, garbage, rubbish, trash or recyclable materials by the Township, shall be deemed to have given consent, whether express or implied, to Newton Township or its Designated Contractor to open and inspect any container, receptacle or enclosure containing, or purporting to contain, MSW, refuse, garbage, rubbish, trash or recyclable materials, for a legitimate purpose associated with administering, enforcing and/or determining compliance with this Ordinance and/or any other applicable law.

SECTION 16. REPEAL OF INCONSISTENT ORDINANCES: Any and all prior ordinances or any

part of any ordinance inconsistent with this Ordinance are hereby repealed pro tanto.

SECTION 17. SEVERABILITY AND SAVING CLAUSE: This Ordinance is declared to be necessary for the preservation of public health and safety, and is enacted pursuant to the police powers of Newton Township for that purpose, as well as the authority granted to the Township under the Municipal Waste Planning Recycling and Waste Reduction Act. If any sentence, clause, section, or part of this Ordinance is, for any reason, determined to be invalid, illegal or unconstitutional, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this Ordinance.

SECTION 18. POWER TO AMEND ORDINANCE: The Board of Supervisors reserves the right to amend this Ordinance, or any portion thereof, from time to time, as it shall deem advisable in the best interests of the Township and intention to advance the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 19. EFFECTIVE DATE: This Ordinance shall become effective five (5) days after the date it is adopted and enacted by vote of the Board of Supervisors.

DULY ENACTED AND ORDAINED, this 29th day of March 2004, by the Board of Supervisors of
Newton Township, Lackawanna County, Pennsylvania, in lawful session duly assembled

ATTEST:

BOARD OF SUPERVISORS
NEWTON TOWNSHIP

Katharine D. Miller
Secretary

By: *[Signature]*

By: *[Signature]*

By: *[Signature]*

By: _____

By: _____