

**LOWER PROVIDENCE TOWNSHIP
MONTGOMERY COUNTY**

ORDINANCE NO. 673

**AN ORDINANCE OF LOWER PROVIDENCE TOWNSHIP,
MONTGOMERY COUNTY, PENNSYLVANIA, REVISING
CHAPTER 93, "GARBAGE, RUBBISH AND REFUSE", OF
THE CODE OF LOWER PROVIDENCE TOWNSHIP,
REPEALING ARTICLE I, "ACCUMULATION AND
DUMPING", REPEALING ARTICLE III, "SOLID WASTE
MANAGEMENT" REVISING ARTICLE II, "MUNICIPAL
WASTE AND RECYCLING" OF THE CODE OF LOWER
PROVIDENCE TOWNSHIP; RESTATING AND
RENUMBERING ARTICLE II WITHIN NEW CHAPTER
93, "MUNICIPAL WASTE AND RECYCLING"
REGULATING THE COLLECTION OF WASTE AND
RECYCLING IN THE TOWNSHIP, PROVIDING
DEFINITIONS, PROVIDING FOR THE LICENSING OF
COLLECTORS, PROVIDING FOR CHARGES FOR
COLLECTION AND PRESCRIBING PENALTIES FOR
VIOLATIONS THEREOF**

WHEREAS, Lower Providence Township (the "Township") is a Second-Class Township, situate in the County of Montgomery, organized and existing pursuant to the laws of the Commonwealth of Pennsylvania;

WHEREAS, the Second-Class Township Code, 53 P.S. §67101, et. seq. allows the Township to regulate Solid Waste; and

WHEREAS, due to changes within Montgomery County, the Township wishes to repeal the current Chapter 93 "Garbage, Rubbish and Refuse" of the Township's codified ordinances and adopt new Chapter 93 "Municipal Waste and Recycling."

NOW, THEREFORE, be it hereby *ENACTED* that Chapter 93, "Garbage, Rubbish and Refuse," Articles I, II, and III of the Code of Lower Providence Township, are hereby repealed and replaced with new Chapter 93, "Municipal Waste and Recycling" to read as follows:

SECTION 1 – CHAPTER 93—Municipal Waste and Recycling

ARTICLE I. General Provisions

§ 93-1. Title.

This Article shall be known and may be cited as the "Lower Providence Township Waste Reduction and Recycling, Collection and Disposal Ordinance."

§ 93-2. Statutory authority.

This article is enacted pursuant to the Solid Waste Management Act, P.L. 380, No. 97, July 7, 1980; the Municipal Waste Planning, Recycling and Waste Reduction Act, No. 101, July 28, 1988; and the Second-Class Township Code.

§ 93-3. Purpose and goals.

A. The purpose and goals of this article shall be:

- (1) To require waste reduction and recycling as a means of managing municipal waste, conserving resources, and supplying energy.
- (2) To protect the public health, safety, and welfare from the short- and long-term dangers of collection, transportation, processing, and storage of municipal waste.
- (3) To utilize, wherever feasible, the capabilities of private enterprise in accomplishing the desired objectives of an effective, comprehensive solid waste management program.
- (4) To establish and implement within Lower Providence Township a recycling program to return valuable materials to productive use, to conserve energy and to protect capacity at municipal waste processing or disposal facilities.
- (5) To recycle at least 25% of all municipal waste and source-separated recyclable materials generated in Lower Providence Township on and after January 1, 1997.
- (6) The weight or volume of municipal waste generated per capita in Lower Providence Township on January 1, 1997, should, to the greatest extent practicable, be less than the weight or volume of municipal waste generated per capita on the effective date of this article.
- (7) To seek to teach each person living or working in Lower Providence Township the economic, environmental and energy value of recycling and waste reduction and encourage them through a variety of means to participate in such activities.

B. Lower Providence Township shall, to the greatest extent practicable, procure and use products and materials with recycled content, and procure and use materials that are recyclable.

C. All domestic, commercial, and industrial refuse accumulated or stored upon any property within Lower Providence Township shall be collected and removed by a responsible collector, who shall be licensed by the Department.

§ 93-4. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated:

ASHES

Residue from the burning of coal, coke, or other combustible material.

BULK ITEMS

All large household items not capable of inclusion in the normal solid waste collection process due to size, including refrigerators, washing machines, dryers, window air conditioners, hot-water heaters, and other major home appliances.

COLLECTOR

Any person licensed by the Department to collect municipal waste and source-separated recyclable materials within the boundary of Lower Providence Township.

DEPARTMENT

The Department of Environmental Protection (DEP) of the Commonwealth and its authorized representatives.

DISPOSAL

The deposition, injection, dumping, spilling, leaking, or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of this commonwealth.

DWELLING

A place of residence within Lower Providence Township of one or more persons where refuse is generated through normal living habits. It shall not include apartments or buildings devoted to three or more multifamily occupancy.

GARBAGE

All animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of foods.

LEAF WASTE

Leaves, garden residues, shrubbery and tree trimmings and similar material, but not including grass clippings.

MANAGEMENT

The entire process, or any part thereof, of storage, collection, transportation, processing, treatment, and disposal of solid wastes by any person engaging in such process.

MUNICIPAL RECYCLING PROGRAM

A source-separation and collection program for recycling Lower Providence Township waste or source-separated recyclable materials or a program for designated drop off

points or collection centers for recycling waste or source-separated recyclable materials. The term includes any source separation and collection program for composting yard waste that is approved by or on behalf of Lower Providence Township. The term shall not include any program for recycling construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.

MUNICIPAL WASTE

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous materials, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual waste or hazardous waste in Act 97 and Act 101 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

MUNICIPAL WASTE COLLECTOR

Any collector authorized by the Department to collect municipal waste.

MUNICIPAL WASTE LANDFILL

Any facility that is designed, operated or maintained for the disposal of municipal waste and possesses a permit from the Department. The term does not include any facility that is used exclusively for disposal of construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.

MUNICIPALITY

The Township of Lower Providence, Montgomery County, Pennsylvania.

OCCUPANT

A person generally in possession and control of any dwelling.

OPERATOR

A person engaged in solid waste processing or disposal. Where more than one person is so engaged in a single operation, all persons shall be deemed jointly and severally responsible for compliance with the provisions of this article.

PERSON

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

POLLUTION

Contamination of any air, water, land or other natural resources of Lower Providence Township that will create or is likely to create a public nuisance or to render the air, water, land or other natural resources harmful, detrimental or injurious to public health, safety or welfare or to domestic, municipal, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wild animals, birds, fish or other life.

POSTCONSUMER MATERIAL

Any product generated by a business or consumer which has served its intended end use and which has been separated or diverted from solid waste for the purposes of collection, recycling and disposition. The term includes industrial by-products that would otherwise go to disposal or processing facilities. The term does not include internally generated scrap that is commonly returned to industrial or manufacturing processes.

PUBLIC AGENCY

Any commonwealth agency or local public agency.

RECYCLABLE MATERIALS

Only those materials currently required to be source-separated and recycled pursuant to the rules and regulations of the Department.

RECYCLED CONTENT

Goods, supplies, equipment, materials and printing containing postconsumer materials.

RECYCLING

The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed of or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than fuel for the operation of energy.

RECYCLING FACILITY

A facility employing a technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term "recycling facility" shall not mean transfer stations or landfills for solid waste nor composting facilities.

REFUSE

All solid waste, except human body wastes, including garbage, ashes, and rubbish.

RESIDENT

Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other governmental agency or any other legal entity or any group

of such persons whatsoever which is recognized by laws as the subject of rights and duties, which owns, leases, or occupies a property located in Lower Providence Township used as a residence.

RESIDUAL WASTE

Any garbage, refuse, other discarded material, or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining, and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term shall not include coal refuse as defined in the Act of September 24, 1968, (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act." The term shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law."

SOLID WASTE

Any waste, including but not limited to municipal, residual, or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials. The term does not include coal ash or drill cuttings.

SOLID WASTE MANAGEMENT ACT

The Act of July 7, 1980, P.L. 380, No. 97.

SOURCE-SEPARATED RECYCLABLE MATERIALS

Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

STORAGE

The containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any municipal waste in excess of one year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

TRANSPORTATION

The off-site removal of any municipal waste at any time after generation.

TREATMENT

Any method, technique, or process, including but not limited to neutralization, designed to change the physical, chemical, or biological character or composition of any municipal waste so as to neutralize such waste or so as to render such waste safer for transport, suitable for recovery, suitable for storage or reduced in volume.

WASTE REDUCTION

The design, manufacture or use of a product to minimize weight of municipal waste that requires processing or disposal, including but not limited to:

- A. Design or manufacturing activities which minimize the weight or volume of materials contained in a product or increase durability or recyclability.
- B. Use of products that contain as little material as possible, are capable of being reused or recycled or have an extended useful life.

§ 93-5 Registration of collectors.

Any person providing municipal waste collection services in the Township shall register with the Township, providing collection days, contact information and proof of authorization for collection and disposal from the department.

§ 93-6 Responsibilities, powers, and duties of township.

- A. Responsibilities. Lower Providence Township shall have the power and its duty shall be to assure the proper and adequate transportation, collection and storage of municipal waste which is generated or present within its boundaries, to assure adequate capacity for the disposal of municipal waste generated within its boundaries by means of the procedure set forth in Section 1111 of the Municipal Waste Planning, Recycling and Waste Reduction Act and to adopt and implement a program for the collection and recycling of municipal waste or source-separated recyclable materials as provided in this article.
- B. Powers. In carrying out its duties under this section, the Board of Supervisors shall have all of the powers conferred upon it by the Solid Waste Management Act and the Municipal Waste Planning, Recycling and Waste Reduction Act and may adopt resolutions establishing procedures, rules, regulations and standards for the recycling, transportation, storage, collection and disposal of municipal wastes and/or source-separated recyclable materials which shall not be less stringent than, and not in violation of or inconsistent with, the provisions and purposes of the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and the regulations promulgated pursuant thereto.
- C. Duties. Lower Providence Township shall implement the provisions of this article by providing for the proper and adequate collection, transportation, storage and disposal of municipal waste generated or present within its boundaries and by collecting, transporting, processing or marketing source-separated materials by contracting with any person to carry out its duties for the recycling, transportation, collection and storage of municipal waste and source-separated recyclable materials. The recycling, transportation, collection or storage activity or facility shall be conducted or operated in a manner that is consistent with the Solid Waste Management Act, the Municipal Waste Planning,

Recycling and Waste Reduction Act, this article and the regulations promulgated pursuant thereto.

§ 93-7 Designated sites.

The Board of Supervisors hereby requires that all municipal waste generated within its jurisdiction shall be disposed of or processed at such permitted facilities it shall designate by resolution adopted pursuant to this article and the provisions of the Municipal Waste Planning, Recycling and Waste Reduction Act.

§ 93-8 Compliance required.

Every collector shall comply with the requirements of this article and all rules, regulations, procedures, and standards adopted by the Lower Providence Township Board of Supervisors for the collection, transportation and disposal of municipal waste and recyclable materials.

§ 93-9 Failure to comply.

The failure of any collector to comply with the requirements of this article and/or the rules, regulations, procedures, or standards adopted by the Board of Supervisors may result in the imposition of fines and penalties.

§ 93-10 Collection equipment; certificates of insurance.

- A. Collection equipment and transportation vehicles. The collection equipment and transportation vehicles used by collectors for the collection of municipal waste shall be of the closed metal body type with an automatic compactor unit. Said vehicles shall at all times be in good and proper mechanical condition and in compliance with the minimum safety and sanitary regulations of the Commonwealth of Pennsylvania. All such vehicles shall be specifically designed to prevent leakage of any liquid or fluids. Other type vehicles may be used only for the collection of recyclable materials, bulk goods and Christmas trees, provided that such items are collected separately from municipal waste. The municipal waste and recyclables so collected shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vermin or creation of other nuisances. The collection equipment and transportation vehicles shall be kept in a clean and sanitary condition.
- B. Certificate of insurance. All Collectors shall carry sufficient liability insurance as required by the Department.

§93-11 Recycling.

- A. **Residential.** The following provisions apply to the separation and collection of recyclable materials at all residences throughout the township. However, residents of multifamily residential rental properties of four or more units, at which there is established a common system for recycling and collection of municipal waste from all residents of such property, shall not be subject to the provisions of this section, provided that the owner or landlord of said multifamily property submits a written copy of the plan and obtains approval thereof by the Township.
- (1) **Recyclable materials.** All residents of Lower Providence Township shall separate recyclable materials from the municipal waste generated at their property. When placed at the curb for collection in accordance with the provisions of this article, recyclable materials shall be placed in separate, township-approved, reusable plastic containers which clearly identify the contents as recyclables.
 - (2) **Leaf waste.** All residents of Lower Providence Township shall separate leaf waste from other municipal waste generated at their property and place it at the curb for collection at the time designated for collection of said materials on the collection schedule. Leaf waste shall be placed in biodegradable bags. Any resident who wishes to otherwise provide for the proper disposal of leaf waste shall have his plan approved by the township and, thereafter, shall not be required to comply with the provisions of this section.
 - (3) **Collection.** Recyclable materials shall be source-separated and placed at curbside for collection at a minimum of once per week.
 - (4) **Prohibition.** No person shall place municipal waste in containers used for the separation and collection of recyclables; no person shall place recyclable materials in containers used for the separation and collection of municipal waste.
 - (5) **Notice of violation.** Any person who shall violate the source-separation and recycling provisions of this article shall receive an official written notice of noncompliance from the Township for the first and second offenses. Thereafter, all such violations shall be subject to the penalties hereinafter provided.

B. Nonresidential.

- (1) All owners or operators of nonresidential establishments in Lower Providence Township shall separate recyclable materials from the municipal waste generated at their property and from community activities.
- (2) At the times designated by the collection schedule, all owners or operators of nonresidential establishments shall separate leaf waste from other municipal waste generated at their property or from community activities.
- (3) Collection of municipal waste and recyclables shall be made by a licensed collector at a minimum of once per week.
- (4) Prohibition. No person shall place municipal waste in containers used for the separation and collection of recyclables; no person shall place recyclable materials in containers used for the separation and collection of municipal waste.
- (5) Any owner or operator of a nonresidential establishment may apply for exemption from the requirements of this article by submitting a written copy of a plan which accomplishes the objectives of this article for approval by the township. The approval of any such plan shall be conditional upon the owner or operator submitting a certified report of the total waste and recyclable materials removed from said establishment.
- (6) Notice of violation. Any person who shall violate the source-separation and recycling provisions of this article shall receive an official written notice of noncompliance from the township for the first and second offenses. Thereafter, all such violations shall be subject to the penalties hereinafter provided.

§ 93-12 Public information and education; public notice.

Lower Providence Township shall establish a comprehensive and sustained public information and education program concerning recycling program features and requirements. As a part of this program, the Manager shall, at least 30 days prior to the initiation of the recycling program and at least once every six months thereafter, and post on the Township website the requirements of this article. The Manager shall, as he or she deems necessary and appropriate, place an advertisement in a newspaper circulating in Lower Providence Township and post a notice in public places where public notices are customarily posted, including a notice with other official

notifications periodically mailed to residential taxpayers or utilize any combination of the foregoing.

§ 93-13 Collection.

- A.** Accumulation of refuse. No refuse shall be allowed to accumulate on the ground or be deposited on highways, vacant lots or other property nor be thrown in any stream or other body of water.
- B.** Equipment of collection; disposal.
 - (1)** The collector shall be required to collect and remove refuse in motor-driven vehicles having enclosed steel bodies with steel covers and watertight and non-leakable automatic packer-type bodies and to so conduct the collection, removal, and transportation of the refuse under such agreement so as to assure general cleanliness and sanitation throughout the entire process and operation thereof. The collector's unit shall be equipped with appropriate devices to handle containers having a maximum capacity of 32 gallons.
 - (2)** Every collector shall also be required, at his own cost, to dispose of, at an approved disposal area, all quantities of municipal waste collected by him, and to furnish, at his own cost, all vehicles, machinery, and equipment necessary for the proper performance of such contract.
- C.** Disposal. Each collector applying for a license shall only dispose of municipal waste collected in Lower Providence Township at a facility permitted to accept such waste by the Department and shall provide a valid agreement, not subject to cancellation, covering use of an approved disposal facility upon request of the Township.
- D.** Billing procedure. The collector shall establish rates to be charged to each occupant of the premises from which refuse shall be collected. The collector shall enter into individual or separate contracts with each householder or occupant of the premises, without liability to or upon the Township, except that those persons serviced by the township contracted collector shall pay the contract price.
- E.** Complaints. The Board of Supervisors shall have the right to determine finally the true validity of any complaints made by residents as to failure of the collector to collect refuse in accordance with the Township's contract with the collector, this ordinance, and the rules and regulations of the Department.

- F.** Assignment of contract. The collector shall not assign his Township contract in whole or in part without the written consent of the Township. Such consent does not release the contractor from any of his or its obligations and liabilities under the Township contract.
- G.** Workmen's compensation and social security and indemnity by collector. Workmen's Compensation and Social Security Acts, as amended, are deemed a part of the contract. The collector shall be obliged to provide workmen's compensation coverage and shall fulfill the terms and save harmless the Township and all its officers, agents and employees, successors and assigns, jointly and severally, of and from all manner of losses, suits, actions, payments, costs, charges, damages, judgments or claims or demands of any character, name or description brought on account of any injuries or damages received or sustained by any person, persons or property by reason of any act, omission, negligence or misconduct of said contractor, his agents or employees in the execution of the Township collection contract.
- H.** Collector as an independent contractor. Collectors shall not in any manner be construed as an agent, servant or employee of the township, but shall, at all times, be considered and remain an independent contractor.
- I.** Insurance coverage. Every contractor shall carry an insurance policy providing complete third-party comprehensive liability and property damage insurance.
- J.** Faithful performance. Unless prevented by unavoidable accident, act of God or public immunity or any restrictions or embargoes imposed by the federal government or any agency thereof; it is understood and agreed that all material shall be collected, removed and disposed of in a skillful and businesslike manner, satisfactory to the Township.
- K.** Evidence of satisfactory equipment. Each collector shall, upon request by the Township, certify that he has available equipment, by ownership or by valid lease agreement, for collecting and disposing of materials and that all equipment for transporting of materials will comply with the sanitary and watertight requirements set forth by the Township.
- L.** Certified list of customers. Upon request by the Township, all collectors shall deliver to the township a certified list of customers. This list shall become and always remain the property of the Township.

§ 93-14 Rules and regulations.

The collection of municipal waste and recyclable materials by municipal waste collectors and the preparation for collection of municipal waste and recyclable materials by property owners and residents of the township shall be made in compliance with the regulations adopted by the Board of Supervisors of Lower Providence Township to carry out the intent and purpose of this article. Such rules and regulations shall be approved by resolution of the Board of Supervisors and, when so approved, shall have the same force and effect as the provisions of this article. The said rules and regulations may be amended, modified, or repealed by resolution of the Board of Supervisors.

§ 93-15 Charges; billing.

The charge for collection, transportation and disposal of all municipal waste and recyclable materials shall be the amount of the township-wide contract, if any, or such amount as those persons have agreed to pay their selected collector. The applicable amount shall be billed directly to each property owner or his designee and shall be due within 30 days of the date of billing.

§ 93-16 Unlawful conduct.

A. It shall be unlawful for any person to:

- (1) Violate, cause, or assist in the violation of any provision of this article, any rule, regulation, or order promulgated hereunder, or any rule, regulation or order promulgated by the county or Lower Providence Township consistent with this article.
- (2) Collect or transport municipal waste present or generated within the municipality without a valid license for collection or transportation issued by the Department.
- (3) Hinder, obstruct, prevent, or interfere with the Township in its performance of any duty under this article or in the enforcement of this article.
- (4) Act in a manner that is contrary to Act 97 or Act 101, regulations promulgated thereunder, the plan, this article, this ordinance, and the rules or regulations promulgated by the Department.

B. Public nuisance. Any unlawful conduct set forth in Subsection A hereof shall constitute a public nuisance.

§ 93-17 Violations and penalties.

Any person who violates any provisions of this article or of the regulations adopted hereunder or any person who knowingly commits, takes part or assists in any such violation shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$1,000 and not less than \$500. Each day on which a violation of this article continues shall constitute a separate offense punishable by a like fine or penalty. In addition to this penalty, the Township may institute any appropriate action or proceeding, whether by legal process or otherwise, to prevent any illegal act, conduct, business or use on or about such premises subject to this article.

SECTION 2.

Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 3.

Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

SECTION 4.

Effective Date. This Ordinance shall become effective five (5) days after final enactment.

ENACTED and **ORDAINED** this 2nd day of December, 2021.

LOWER PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS

Attest:

Geraldine Spotts
Name:
Title: Township Secretary

By:

Peter MacFarland
Name: Peter MacFarland
Title: Chairman