

**BENNER TOWNSHIP MUNICIPAL SOLID WASTE  
AND RECYCLING ORDINANCE**

**BENNER TOWNSHIP  
ORDINANCE NO. 105**

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**ARTICLE I Solid Waste Management**

**§ 105-1. Short title.**

This article shall be known as the "Benner Township Municipal Solid Waste Regulations."

**§ 105-2. Purpose.**

- A. It is the intent and purpose of this article to promote the public health, safety and welfare and to eliminate public health hazards, environmental pollution and economic loss by providing that all residential, commercial, industrial and institutional municipal solid waste accumulated or stored upon any property within the Township shall be collected, transported and disposed of within the following conditions:
- (1) All residential properties shall be served by the Township's contracted hauler.
  - (2) All non-residential properties not subject to the Township's contract shall have contracted waste service with a hauler.
  - (3) All municipal solid waste shall be disposed of at an approved facility, in accordance with the Centre County Solid Waste Management Plan, as well as local, state, federal and county laws and ordinances.
- B. These conditions are established to assure Township compliance with the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, (P.L. 528, No. 101), "Pennsylvania Act 101". Editor's Note: See 53 P.S. § 4000.101 et seq.

**§ 105-3. Definitions.**

As used in this Ordinance, the following terms shall have the meanings indicated:

**BULK WASTE** — All waste materials too large for collection in ordinary containers. Examples of bulk waste include: furniture, appliances, carpeting and similar items. Bulk waste shall not consist of any items that may be packaged and disposed of using regular trash collection procedures.

**COMMERCIAL** — Any establishment engaged in a nonmanufacturing or nonprocessing business including, but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters. Multifamily dwelling units, manufactured home parks, hotels, motels, mixed use properties (combined business/residential on a single parcel) and farms which use commercial dumpsters shall be considered commercial establishments. Does not include properties where primary permitted use is residential and accessory use is commercial (i.e., home occupations).

**CUSTOMER** — The owner of any residential, commercial, industrial or institutional property located within the Township.

**CONSTRUCTION AND DEMOLITION WASTE** — Lumber, roofing material, sheathing, rubble, broken concrete, macadam, plaster and brick, conduit, pipe, insulation and other material which results from a construction, demolition or remodeling process.

**DESIGNATED AGENT** — An agent such as the Centre Region Council of Governments acting on behalf of a municipality whose powers and responsibilities are established in an intergovernmental agreement or similar document.

**DWELLING UNIT** — One or more rooms on premises which have cooking facilities and are arranged for occupancy by one person, two or more persons living together or one family. Each dwelling unit within a noncommercial building shall be considered an individual residential customer served by curbside refuse and recycling collection.

**EXCLUSIVE CONTRACT** — An agreement entered into by Benner Township, or its designated agent, with a private person or corporation for the collection and disposal of all municipal waste generated within the boundaries of the Township to the extent provided by this article and the agreement.

**FARM** — A single parcel of land of at least 10 acres, which is used for normal agricultural purposes, including barns, greenhouses and not more than three single-family dwelling units.

**HAULER** — a person who collects, transports and/or disposes of municipal solid waste, recyclable materials and bulk waste from residential, commercial, industrial and institutional establishments or community activity. The term may be applied to a person having the exclusive right to collect within the Township. All such haulers shall comply with the provisions under State Act 90, as well as all Federal, State, County and local laws, rules and regulations.

**INDUSTRIAL** — Any establishment engaging in manufacturing or processing including, but not limited to factories, foundries, mills, processing plants and refineries.

**INSTITUTIONAL** — Any establishment engaged in service to persons including, but not limited to hospitals, nursing homes, orphanages, schools and universities.

**MULTIFAMILY DWELLING UNIT** — A type of residential property either under single ownership or organized as a condominium or cooperative form of housing, which contains five or more dwelling units.

**MUNICIPAL SOLID WASTE** — Any garbage, refuse, industrial lunchroom or office waste and any other material including solid waste, liquid, semisolid or contained gaseous materials resulting from the operation of residential, municipal, commercial, industrial or institutional establishments and from community activities, 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, waste water treatment plant or air pollution control facility (Pennsylvania Act 101, Section 103). Editor's Note: See 53 P.S. § 4000.103.

**PERSON** — An individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution or agency or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

**RECYCLABLES** — the collection and separation of aluminum, steel, and bimetal cans; green, brown, blue, and clear glass; newsprint and bundles of magazines; unwanted mail; mixed office paper; paperboard; all plastic bottles (1 through 7); domestic corrugated cardboard; empty aerosol and paint cans; and any other materials per section 1501 of State Act 101 (Editor's note: See 53 P.S. § 4000.1501) or added as material accepted by the Centre County Solid

Waste Authority ("CCSWA") from time to time.

REFUSE — All municipal solid waste which is regulated by State Act 101 and the Centre County Solid Waste Authority, except the following categories of solid waste:

- A. Bulk waste, including tires and appliances
- B. Construction/demolition waste
- C. Sludge
- D. Infectious/pathological waste
- E. Ash residue
- F. Friable asbestos waste
- G. Source separated recyclable materials
- H. Household hazardous waste
- I. Oversized refuse items
- J. Grass clippings
- K. Leaf waste
- L. Unacceptable waste

RESIDENTIAL PROPERTY — A "Dwelling unit" under single ownership or organized as a condominium or cooperative form of housing, which contains 1, 2, 3 or 4 dwelling units.

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." Editor's Note: See 52 P.S. § 30.51 et seq. The term shall not include treatment sludge 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" (Pennsylvania Act 101, Section 103). Editor's Note: See 35 P.S. § 690.1 et seq.

TOWNSHIP — The governmental jurisdiction and legal entity of the Township of Benner, Centre County, Pennsylvania.

UNACCEPTABLE WASTE — The following categories of solid waste:

- A. Hazardous waste
- B. Residual waste
- C. Unsterilized or unprocessed infectious or pathological waste
- D. Chemotherapeutic waste
- E. Gas cylinders
- F. Explosives and ordnance materials
- G. Liquid waste (i.e. containing less than 20% solids by weight or flowable)
- H. Drums, barrels and buckets unless lids have been removed and interiors cleaned and free

of any residue

- I. Radioactive materials
- J. Any solid waste generated outside of the Township

**§ 105-4. Maintenance of containers.**

It shall be the duty of every person owning a residential, commercial, industrial or institutional property within the Township where municipal solid waste is generated and accumulated, by his/her own expense and cost, except as otherwise specified in this article, to provide and keep at all times a sufficient number of containers to hold all municipal solid waste accumulated between intervals of collection of such waste by a hauler; and to ensure the sanitary and legal disposal of such waste in accordance with this article and all other Township, state and federal applicable laws and regulations.

**§ 105-5. Storage on residential properties.**

- A. All refuse accumulated by owners of residential properties and/or the occupants of residential properties shall be placed in containers for collection by a hauler. Refuse containers used for curbside collection shall be watertight, covered plastic or metallic cans or durable and lightweight plastic bags that can be easily and quickly handled by one person. Refuse containers shall be not less than five (5) gallons nor more than 35 gallons in capacity. The weight of a single filled container shall not exceed 40 pounds. Use of bulk containers at multifamily establishments shall comply with the provisions of § 105-6A below.
- B. It shall be the responsibility of each customer to keep all refuse receptacles in good repair and sanitary condition. Any receptacle which does not conform to the provisions of this article or that may have ragged or sharp edges or any other defect liable to hamper or injure the hauler shall be promptly replaced upon notice. Failure to comply within 10 days will result in the removal of the defective receptacle as refuse.
- C. A sufficient number of refuse receptacles shall be provided by the customer of the premises. No container shall be so filled that the lid will not fit tightly.
- D. More than one family or living unit on the same premises may use the same containers but each family must pay the established rate as though a separate container is being used.
- E. Location of containers. For residential properties with curbside collection, each refuse container shall be placed for collection so as to be accessible to the hauler at ground level and at a point immediately behind the curblines of the street, within no more than 10 feet of the cartway of the street or alley from which the collection with a vehicle is made if there is no curbing, or at a location mutually agreeable between the resident, the Township and the hauler. Failure to place containers at such locations may result in refuse not being collected. Pickup at alternate locations may occur in accordance with agreement between customer and hauler. Location of bulk containers at multifamily dwelling units shall be in accordance with § 105-6B below.
- F. Failure to remove refuse containers from the curb or street shall constitute a violation of this ordinance, subject to the penalties contained herein.
- G. Persons with physical disabilities (due to age, poor health, or as defined in the Americans with Disabilities Act) whose residence is included under the Township's exclusive contract may place refuse at other-than-street or alley locations at no additional charge when approved by the Township Manager or his/her designee.

**§ 105-6. Storage on commercial, industrial and institutional properties.**

- A. Containers. Storage of municipal solid waste on commercial, industrial and institutional properties shall be done in a dumpster for collection by a hauler. If the amount of waste generated per week is less than a 2 yard dumpster the same type of containers as required for residential properties as defined in section § 105-5 shall be allowed if agreed upon by both the customer and the hauler.
- B. Location of containers. Dumpsters for the storage and collection of municipal solid waste at commercial, industrial or institutional properties shall be placed, whenever possible, at ground level and at a point on the property being serviced by the hauler which will enable clear and easy access to the dumpster by the hauler's vehicle. The location on the customer's premises at a place agreed upon by the customer of the commercial, industrial or institutional property and the hauler. This location and buffering, if required, shall be in compliance with zoning or other applicable municipal requirements for the location of such containers. Such locations shall not interfere with regular travel upon public or private sidewalks, walkways, driveways, roads, streets, highways, alleys or entrances and exits of public or private buildings.

**§ 105-7. Collection of municipal solid waste.**

- A. It shall be unlawful for any person other than persons defined herein to collect and/or transport municipal solid waste, which is generated within the Township, as a regular hauling business. The Township may decide to enter into an exclusive contract for residential and/or commercial refuse collection or any part thereof.

**§ 105-8. Transportation of municipal solid waste.**

- A. Any person transporting municipal solid waste within the Township shall prevent or remedy any spillage from vehicles or containers used in the transport of such municipal solid waste. The haulers shall collect municipal solid waste in vehicles which are suitable for such collection, which are dedicated for use in performance of such collection, and which bear prominent legible marking, signs, or decals identifying them as being municipal solid waste collection vehicles, and stating the name and phone number of the hauler. The vehicles shall be securely covered, watertight, strongly built and kept thoroughly cleaned and well maintained. Except for roll-offs, open trucks or trucks covered with tarps will not be used for the collection of municipal solid waste. Open trucks may be used for the collection of bulk waste, provided that the truck is tarped.
- B. The Township, or its designated agent, shall have the authority to inspect the vehicles used for the transport of municipal solid waste as it deems necessary to determine compliance with this article or any other ordinance, resolution and/or regulation of the Township. The hauler shall correct deficiencies immediately upon notification by the Township or its designated agent, and said vehicle shall not be used for refuse collection until the deficiencies have been corrected.

**§ 105-9. Disposal of municipal solid waste.**

All municipal solid waste produced, collected and transported from within the jurisdictional limits of the Township shall be disposed of at the facilities designated in the Centre County Solid Waste Management Plan. Editor's Note: The county plan is on file in the county offices.

**§ 105-10. Unlawful disposition of municipal solid waste.**

It shall be unlawful for any person to bring any municipal solid waste into Benner Township or to transport municipal solid waste from one address to another within or outside of the Township for the purpose of taking advantage of the collection service to avoid the cost of collection.

**§ 105-11. Bulk waste.**

- A. Bulk waste shall be disposed of in accordance with the Centre County Solid Waste Management Plan at a permitted disposal facility, a facility especially designated by the Township to take such bulk items or a legitimate salvage dealer that is in the business of disposing or recycling such items. Bulk waste may be transported in a vehicle appropriate to the type of waste so as to prevent spillage, accidental loss, etc.
- B. Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of collecting municipal solid waste from hauling his/her bulk waste to a permitted disposal facility or to a disposal facility as designated by the Township in accordance with the regulations of the disposal facility.

**§ 105-12. Construction and demolition waste.**

All waste materials resulting from the building, structural alteration, repair, construction or demolition of buildings or structures shall be disposed of as permitted by applicable Township, county, state and federal laws and regulations as may be in effect or as may be subsequently imposed. It shall be the responsibility of the property owner to ensure the disposal of such waste in accordance with applicable laws and regulations. Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of collecting municipal solid waste from hauling his/her construction and demolition waste to a state permitted disposal facility or to a disposal facility as designated by the Township in accordance with the regulations of the disposal facility.

**§ 105-13. Exclusions.**

- A. Nothing contained herein shall prohibit a farmer from carrying out normal farming operations, including composting or spreading of manure or other farm produced agricultural waste, not otherwise prohibited or regulated for land applications. All such practices must be conducted in compliance with applicable Township, state and federal laws and regulations as may be in effect or subsequently imposed.
- B. The provisions of this article do not apply to anything but the storage, collection, transportation and disposal of municipal solid waste and do not apply therefore, to hazardous or residual waste as defined by the Pennsylvania Solid Waste Management Act and its amendments. All hazardous or residual waste must be disposed of in compliance with applicable Township, state and federal laws and regulations as may be in effect or subsequently imposed.

**§ 105-14. Accumulation of waste prohibited.**

For reasons of health and sanitation, it shall be unlawful for any person to accumulate or permit to accumulate upon private property in the Township, any of the types of wastes defined within § 105-3 of this article.

**§ 105-15. Service fee required.**

It shall be the duty and responsibility of every owner of property and every person occupying a dwelling unit, premises or place of business within the Township where municipal solid waste is generated to pay a service fee for the collection and disposal of this waste, except as otherwise provided by this article, to a hauler, exclusive contractor or to the Township. A hauler, exclusive contractor or the Township may discontinue service for nonpayment of service fees by a residential, commercial, industrial or institutional establishment. To discontinue residential service, the customer shall be in arrears a minimum of 90 days and shall have received during this period a minimum of two written notices from the hauler regarding the amount due and procedures for payment. The second notice shall be sent by certified mail. At the time of the discontinuance of service, the customer shall be considered in violation of this article. Discontinuance of service due to nonpayment of service fees shall not relieve the resident or establishment from abiding by all of the requirements of this article. The Township, or its designated agent, hauler or exclusive contractor may impose an administrative fee to reinstate customers whose service is disconnected.

**§ 105-16. Service charges.**

The cost of such residential or commercial municipal solid waste collection service, and the responsibility of payment therefore, shall be borne by the owner of the premises from which said municipal solid waste is collected or upon which premises said municipal solid waste is generated and disposed of. No agreement between an owner and occupant or other person shall relieve the owner of any premises from liability for payments as set forth hereinafter.

**§ 105-17. Charges to be established by resolution.**

All service fees established under an exclusive contract for the collection of municipal solid waste by the Township shall be established by a resolution of the Township Board of Supervisors. Service charges so established shall be reviewed at least annually and adjusted as necessary to ensure that all costs involved in the collection and disposal of municipal solid waste under the exclusive contract, including the administrative costs of the Township, or its designated agent, are covered by the service charges.

**§ 105-18. Violations and penalties.**

Any person violating any of the provisions of this article shall, upon conviction by a District Justice, be subject to a fine of not less than \$100 nor more than \$1,000, together with the cost of prosecution, or imprisonment in the Centre County Prison for a period of not more than 30 days. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Every violator of the provisions of this article shall be deemed guilty of a separate offense each and every day such violation continues and shall be subject to the penalty imposed by this section for each and every separate offense.

**§ 105-19. Other remedies.**

In addition to the foregoing penalty, the Township may require the owner or occupant of a property to remove any accumulation of waste as identified under § 105-14, and should said person fail to remove such waste after five days following written notice, the Township may cause the waste to be collected and disposed of with the cost for such action to be charged to the owner or occupant of the property. Failure by the owner or occupant of the property to pay said charges within 30 days will result in a lien being filed against the property.

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**ARTICLE II Recycling**

**§ 105-20. Short title.**

This article shall be known as the "Benner Township Recycling Regulations" and the same may be cited in that manner.

**§ 105-21. Purpose.**

The Township of Benner recognizing the reclamation of recyclable materials has become an important method for addressing the growing solid waste disposal problem through conservation of landfill space, preservation of natural resources and a reduction in energy consumption, does hereby authorize the storage, collection and transportation of recyclable materials in accordance with the provisions of the Municipal Waste Planning, Recycling and Waste Reduction Act (No. 101), the Centre County Solid Waste Management Plan, *Editor's Note: The county plan is on file in the county offices.* and this article. This article is intended to be an integral part of an overall system designed to facilitate recycling and foster the cooperation of the residents.

**§ 105-22. Definitions.**

The following words and phrases when used in this article shall have, unless the context clearly indicates otherwise, the meanings given to them in this article:

ALUMINUM CANS — Empty all-aluminum beverage and food containers.

AUTHORITY — Centre County Solid Waste Authority.

BIMETAL CONTAINERS — Empty beverage or food containers consisting of two metals such as steel, tin or aluminum.

COMMERCIAL — Any establishment engaged in a nonmanufacturing or nonprocessing business including, but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters. Multifamily dwelling units, manufactured home parks, hotels, motels, mixed use properties (combined business/residential on a single parcel) and farms which use commercial dumpsters shall be considered commercial establishments. Does not include properties where the primary permitted use is residential and accessory use is commercial (i.e., home occupations).

COMMUNITY ACTIVITIES — Church, school, civic, service group, municipal functions and all other such functions.

CORRUGATED PAPER — Structural paper material with an inner core shaped in rigid parallel furrows and ridges.



**CURBSIDE RECYCLING COLLECTION** — The scheduled collection and transportation of recyclable materials placed at the curb line or other area designated by the collector.

**CUSTOMER** — The owner of any residential, commercial, industrial or institutional property located within the Township.

**DESIGNATED AGENT** — An agent, such as the Centre Region Council of Governments, acting on behalf of the Township whose powers and responsibilities are established in an intergovernmental agreement or similar document.

**DROP-OFF SITES** — Those specified locations, staffed or unstaffed, where recyclable materials may be taken at specified times.

**DWELLING UNIT** — One or more rooms on premises which have cooking facilities and are arranged for occupancy by one person, two or more persons living together or one family. Each dwelling unit within a noncommercial building shall be considered an individual residential customer served by curbside refuse and recycling collection..

**ENFORCEMENT OFFICER** — The official designated herein or otherwise charged with the responsibilities of administering this article, or the official authorized representative.

**EXCLUSIVE CONTRACT** — An agreement entered into by Benner Township, or its designated agent, with a private person or corporation for the collection and disposal of all municipal waste generated within the boundaries of the Township to the extent provided by this article and the agreement.

**GLASS CONTAINERS** — Bottles and jars made of clear, green or amber glass. Expressly excluded are non-container glass, automobile glass, plate glass, blue glass, lead crystal and porcelain and ceramic products.

**HAULER** — a person who collects, transports and/or disposes of municipal solid waste, recyclable materials and bulk waste from residential, commercial, industrial and institutional establishments or community activity. The term may be applied to a person having the exclusive right to collect within the Township. All such haulers shall comply with the provisions under State Act 90, as well as all Federal, State, County and local laws, rules and regulations.

**HIGH-DENSITY POLYETHYLENE (HDPE) CONTAINERS** — Plastic bottles and jars made exclusively from non-colored high-density polyethylene, such as milk and water jugs.

**HIGH-GRADE OFFICE PAPER** — All white paper, bond paper, and computer paper used in commercial, industrial, institutional and municipal establishments.

**INDUSTRIAL** — Any establishment engaging in manufacturing or processing including, but not limited to factories, foundries, mills, processing plants and refineries.

**INSTITUTIONAL** — Any establishment engaged in service to persons including, but not limited to hospitals, nursing homes, orphanages, schools and universities.

**LEAD ACID BATTERIES** — Includes, but not be limited to automotive, truck and industrial batteries that contain lead.

**LEAF WASTE** — Leaves, garden residue, shrubbery and tree trimmings, and similar material but not including grass clippings. (Act 101, section 103)

**MULTIFAMILY DWELLING UNIT** — A type of residential property either under single ownership or organized as a condominium or cooperative form of housing, which contains five or more dwelling units.

**MUNICIPAL SOLID WASTE** — Any garbage, refuse, industrial lunchroom or office waste and any other material including solid waste, liquid, semisolid or contained gaseous materials resulting from the operation of residential, municipal, commercial, industrial or institutional establishments and from community activities, 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, waste water treatment plant, or air pollution control facilities (Pennsylvania Act 101, Section 103). Editor's Note: See 53 P.S. § 4000.103.

**NEWSPAPERS** — All paper of the type commonly referred to as newsprint and distributed at fixed intervals having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded are newspapers which are wet, yellowed or soiled.

**PERSON** — An individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution or agency or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

**POLYETHYLENE TEREPHTHALATE (PET) CONTAINERS** — Plastic soda bottles composed of the polymer PET.

**RECYCLABLE MATERIALS** — the collection and separation of aluminum, steel, and bimetal cans; green, brown, blue, and clear glass; newsprint and bundles of magazines; unwanted mail; mixed office paper; paperboard; all plastic bottles (1 through 7); domestic corrugated cardboard; empty aerosol and paint cans; and any other materials per section 1501 of State Act 101 (Editor's note: See 53 P.S. § 4000.1501) or added as material accepted by the Centre County Solid Waste Authority ("CCSWA") from time to time.

**RESIDENTIAL PROPERTY** — A " Dwelling Unit" under single ownership or organized as a condominium or cooperative form of housing, which contains 1, 2, 3 or 4 dwelling units.

**STEEL CANS** — Empty all-steel food and beverage containers.

**TOWNSHIP** — The governmental jurisdiction and legal entity of the Township of Benner, Centre County, Pennsylvania.

#### **§ 105-23. General provisions.**

Those recyclable materials separated under the provisions of this article shall not be considered municipal waste and shall not be subject to the provisions of Township ordinances which require disposal of municipal solid waste at the Centre County Solid Waste Authority facilities by a hauler as defined herein.

#### **§ 105-24. Recycling program established.**

The Township hereby establishes a program for the mandatory separation of recyclables from municipal solid waste by residential dwellings and commercial, industrial and institutional establishments.

#### **§ 105-25. Drop-off facilities.**

Drop-off facilities may be sited for use by those residential and commercial properties located within Centre County not serviced by a curbside route. Occupants of these residential and commercial properties shall be responsible for the separation of recyclable materials from municipal solid waste and their preparation and delivery to drop-off sites established by the Township.

#### **§ 105-26. Containers**

- A. All recyclable material accumulated by owners of residential, commercial, industrial and institutional properties and/or occupants of said properties shall be placed in containers for collection by a hauler.

- B. It shall be the responsibility of each customer to keep all recycling receptacles in good repair and sanitary condition.
- C. More than one family or living unit on the same premises may use the same containers but each family must pay the established rate as though a separate container is being used.
- D. Location of containers. For residential and commercial properties recycling containers shall be placed near refuse containers for collection. Pickup at alternate locations may occur in accordance with agreement between customer and hauler.

**§ 105-27. Recycling by hauler.**

- A. All recyclable materials generated within the Township shall be collected by a hauler. A commercial, industrial and institutional establishment may utilize an individual recycling program in conformance with § 105-28.
- B. The Township or its designated agent may, through a competitive bidding process, award an exclusive service contract for all or part of residential recycling collection.

**§ 105-28. Individual recycling plan.**

- A. Commercial, industrial and institutional establishments conducting their own recycling programs, not in conjunction with a hauler or under an exclusive contract as may be established by the Township for the collection of municipal waste and recyclables, shall file with the Township or its designated agent and have approved by the Township or its designated agent, plans for individual recycling programs which provide for, at a minimum, the recycling of items listed in rules and regulations for the recycling program.
- B. In addition to filing an individual recycling plan, commercial, industrial and institutional customers who choose to establish an individual recycling program are required to submit semiannually to the Township or its designated agent, weigh slips or other certification which show by weight and type of material recycled by that establishment. If weigh slips are not used, the form of certification requires the prior approval of the Township or its designated agent. Required information is due within 60 days of the end of the reporting period designated in the regulations for the recycling program.
- C. An individual recycling plan for commercial, industrial or institutional establishments shall provide the following information:
  - (1) Applicant's company name, address, telephone number, contact person and owner's name.
  - (2) Company name, address, telephone number, and contact person for entity providing the recycling service.
  - (3) Description of materials to be recycled, frequency of collection, method of storage and how service will be provided.
  - (4) Form of certification to assure proper disposal of recyclable materials.
  - (5) Municipality in which the establishment is located.
  - (6) Other information as may be required by the Township or its designated agent which is intended to assure the proper disposal of recyclable materials.

**§ 105-29. Establishment of regulations.**

The Township or its designated agent shall establish and promulgate regulations on the manner, days and time of collection of recyclable materials and for the bundling, handling, location and

time of placement of such materials for collection. Regulations shall be promulgated for each of the programs undertaken for residential dwelling units, and commercial, industrial and institutional establishments.

**§ 105-30. Special items.**

- A. Lead acid batteries. No person shall place a used lead acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a secondary lead smelter permitted by the Environmental Protection Agency, or to a collection or recycling facility authorized under the laws of the Commonwealth of Pennsylvania.
- B. Leaf collection. All residential customers and commercial, industrial or institutional establishments who gather leaves shall separate all leaf waste from municipal solid waste and place it for collection at the times and in the manner theretofore or hereafter prescribed by the Township. Nothing herein shall require any person to gather leaf waste or prevent any person from utilizing leaf waste for compost, mulch or other agriculture, horticulture, silvi-cultural, gardening or landscape purposes.

**§ 105-31. Collection by unauthorized persons.**

It is understood that any recyclable materials located at the curb line are the property of the Township. It is further understood that any recyclable materials deposited in storage bins associated with commercial, industrial and institutional establishments belong to the property owner. Recyclable materials deposited in containers owned by the Centre County Solid Waste Authority are the property of the Authority.

**§ 105-32. Accumulation of recyclable prohibited.**

For reasons of health and sanitation, it shall be unlawful for any person to accumulate or permit to accumulate upon private property in the Township, any of the types of recyclables defined within § 105-22 of this article.

**§ 105-33. Enforcement and administration.**

The Board of Supervisors shall appoint an enforcement officer or officers to enforce and administer the provisions of this article.

**§ 105-34. Alternative disposition of recyclable materials.**

Any person may donate or sell recyclable materials to individuals or organizations. Otherwise, such materials are to be placed at curbside, in drop-off facilities or storage bins or similar authorized locations for collection by the exclusive contractor or hauler as applicable.

**§ 105-35. Violations and penalties.**

- A. Nonparticipation.

- (1) Upon the discovery of any violation under the terms of this article, the Township may, through its authorized agent, give notice to the owner or occupant of a violation hereunder, either by personal delivery to such owner or occupant, by United States Mail directed to the last known address of such person or persons, as shown in the real estate registry records of the Township, or by leaving the same on the premises where such violation occurs.
  - (2) Such person shall, within seven days after the delivery, mailing or leaving of such notice, make settlement by paying to the Treasurer of the Township a sum of not more than \$600 for the violation. The failure of such person to make a settlement, as aforesaid, within seven days, the Township may institute an action for violation pursuant to Subsection B.
  - (3) Nothing contained in this section shall affect, in any way, the provisions of this article regarding separate offenses for every day any violation occurs.
- B. Fines for nonparticipation or nonpayment. On neglect or refusal of the occupant of any dwelling serviced by curbside recycling collection, residential dwelling unit or commercial, industrial or institutional establishment, to separate recyclable materials from municipal solid waste and place them at curbside or sites established by the Township or its designated agent, or make a settlement as provided in Subsection A, that person shall, upon conviction before a District Justice of such violation, be sentenced to pay a fine of not less than \$100 nor more than \$1,000, together with the cost of prosecution, or imprisonment in the Centre County Prison for a period of not more than 30 days. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each violation shall constitute a separate offense.
- C. Unauthorized collection. If any person, firm, corporation or other entity, unauthorized by the Township or its designated agent collects or removes or causes to be collected or removed any such recyclable materials as specified in the Benner Township regulations, or in violation of the provisions of this article, such person, firm, corporation or other entity shall, upon conviction by a District Justice in a summary proceeding, be subject to a fine of not less than \$100 nor more than \$1,000, together with the cost of prosecution, or imprisonment in the Centre County Prison for a period of not more than 30 days. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day of a violation shall constitute a separate and distinct offense and shall be subject to separate summary proceedings before a District Justice, and subject to a penalty imposed by this section for each and every such violation shall continue.
- D. Pilfering of collection containers. If any person is responsible for pilfering of collection containers issued to a residence slated for either curbside collection or any other phase of the Benner Township Recycling Program, such person shall, upon conviction by a District Justice in a summary proceeding be subject to a fine of not less than \$100 nor more than \$1,000, together with the cost of prosecution, or imprisonment in the Centre County Prison for a period of not more than 30 days. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day of a violation shall constitute a separate and distinct offense and shall be subject to separate summary proceedings before a District Justice and subject to a penalty imposed by this article for each and every such violation shall continue. The affected resident will be responsible for replacing any missing container through purchase from the Township or its designated agent.

#### **§ 105-36. Severability**

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

**§ 105-37. Amendments.**

This Ordinance or any part thereof may be amended from time to time in accordance with the procedures as established by law.

**§ 105-38. Effective date.**

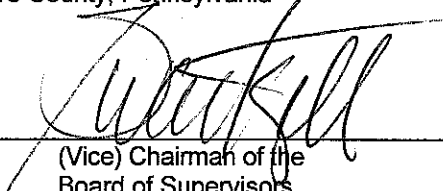
This Ordinance shall become effective on January 1, 2010.

**§ 105-39. Repealer.**

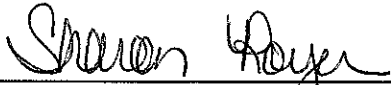
All ordinances or parts of ordinances, and all resolutions or parts of resolutions, that are inconsistent with this Ordinance are hereby expressly repealed.

DULY ENACTED AND ORDAINED, this 7<sup>th</sup> day of December, 2009, by the Board of Supervisors of the Township of Benner, Centre County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF BENNER,  
Centre County, Pennsylvania

By:   
(Vice) Chairman of the  
Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

CERTIFICATE

I, the undersigned, Secretary of the Township of Benner, Centre County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of Ordinance No. 105 of the Board of Supervisors of the Township (the "Board of Supervisors") which duly was enacted by affirmative vote of a majority of the members of the Board of Supervisors at a meeting of the Board of Supervisors duly convened and held according to law on December 7, 2009, at which meeting a quorum was present; said Ordinance duly has been recorded in the Ordinance Book of the Township; such Ordinance duly has been published as required by law; and such Ordinance remains in full force and effect, without amendment, alteration or repeal, as of the date of this certificate.

I further certify that the Board of Supervisors of the Township met the advance notice requirements of the Sunshine Act, 65 Pa.C.S. Ch. 7, by advertising said meeting, by posting prominently a notice of said meeting at the principal office of the Township or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 7<sup>th</sup> day of December, 2009.

  
Secretary

(SEAL)