

DELAWARE TOWNSHIP
ORDINANCE #2010-24

AN ORDINANCE TO AMEND SECTION 12-3 OF THE CODE OF DELAWARE
TOWNSHIP CONCERNING MANDATORY RECYCLING. #2010-24

WHEREAS, amendments to SECTION 12-3 of the Revised General Ordinances of the Township of Delaware concerning recycling are needed to make it consistent with the current Hunterdon County Recycling Plan (hereinafter “County Plan”); and

WHEREAS, the Mayor and Township Committee have determined to make such amendments to comply with the updated County Plan.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Delaware that SECTION 12-3 entitled “Mandatory Recycling” of the Revised General Ordinances of the Township of Delaware be repealed in its entirety and a new SECTION 12-3 be created to read as follows:

Section 1. SECTION 12-3 MANDATORY RECYCLING

12-3.1 Definitions and word usage:

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

DESIGNATED RECYCLABLE MATERIALS – means those materials designated within the Hunterdon County District Solid Waste Management Plan to be source separated for the purpose of recycling. These materials include:

DESIGNATED RECYCLABLE MATERIALS FOR THE GENERATORS OF RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL WASTE:

1. Corrugated – Containers and similar paper items usually used to transport supplies, equipment parts or other merchandise.

2. Mixed Office and Computer Paper – Any and all types of “office-type” paper including, but not limited to: computer paper, hi-grade white paper, typing paper, copier paper, onion-skin, tissue paper, notepad, envelopes, manila folders and colored paper, or any mix thereof.

3. Newspaper – All paper marketed as newsprint or newspaper and containing at least 70% newsprint or newspaper (American Forest and Paper Association grades #6, #7, and #8 news).

4. Other Paper/Magazines/Junk Mail – All paper, which is not defined, as corrugated, mixed office paper, computer paper or newspaper.

5. Glass Containers – All glass containers used for packaging food or beverages.

6. Aluminum Cans – Food and beverage containers made entirely of aluminum.

7. Steel Cans – Rigid containers made exclusively or primarily of steel or tin-plated steel and steel and aluminum cans used to store food, beverages, and a variety of other household and consumer products.

8. Plastic Containers – Containers including polyethylene terephthalate (PETE - #1) soda bottles, high-density polyethylene and (HDPE - #2) milk, water, or detergent, and other designated by current Township and County recycling policy.

ADDITIONAL DESIGNATED RECYCLABLE MATERIALS FOR THE GENERATORS OF COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL WASTE:

9. White Goods and Light Iron – All appliances such as washers, dryers, refrigerators, etc., as well as products made from sheet iron, such as shelving, file cabinets, metal desks, recycled or reconditioned steel drums and other non-structural ferrous scrap.

10. Anti-freeze – All automotive engine coolant consisting of a mixture of ethylene glycol and water or propylene glycol and water.

11. Batteries, Lead-Acid – Batteries from automobiles, trucks, other vehicles, and machinery and equipment. THIS DOES NOT INCLUDE HOUSEHOLD BATTERIES.

12. Used Motor Oil – petroleum-based or synthetic oil which, through use, storage, or handling, has become unsuitable for its original purposed due to the presence of impurities or loss of original properties.

13. Tires – Rubber-based scrap automotive, truck or specialty (e.g. forklift) tires. The tires must be recycled at a facility approved by the New Jersey Department of Environmental Protection.

DESIGNATED RECYCLABLE MATERIALS FROM GENERATORS OF RESIDENTIAL WASTE THAT ARE COLLECTED BY HUNTERDON COUNTY AND OTHER LICENSED MUNICIPAL SOLID WASTE COLLECTORS.

14. Anti-freeze – All automotive engine coolant consisting of a mixture of ethylene glycol and water or propylene glycol and water.

15. Batteries, Lead-Acid – Batteries from automobiles, trucks, other vehicles, and machinery and equipment. THIS DOES NOT INCLUDE HOUSEHOLD BATTERIES.

16. Used Motor Oil – petroleum-based or synthetic oil which, through use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

17. Batteries, Household – Any type of button, coin, cylindrical rectangular or other shaped enclosed device or sealed container which was utilized as an energy source for commercial, industrial, medical, institutional, or household use. THIS DOES NOT INCLUDE LEAD ACID BATTERIES FROM VEHICLES.

18. Mercury Containing Devices – Fluorescent and compact fluorescent tubes (CFTs), High Intensity Discharge (HID) and neon lamps, electrical switches, thermostats and any batteries containing mercury.

19. Petroleum Contaminated Soil – Non-hazardous soils containing petroleum hydrocarbons resulting from spills, leaks, or leaking underground storage tanks used for gasoline or any other commercial fuel and which are recycled in accordance with the requirements of N.J.A.C. 7:26A-1.1 et seq. NOTE: This material can be recycled at “Class B” facilities (for example – authorized asphalt manufacturers).

MUNICIPAL RECYCLING COORDINATOR – means the person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this Section, and any rules and regulations which may be promulgated hereunder;

MUNICIPAL SOLID WASTE (WSM) STREAM – means all solid waste generated at residential, commercial, institutional, and establishments within the boundaries of the municipality of Delaware;

OWNER – means a person who has legal title of record to real property and in the case of multi-family units and residential dwelling complexes, such as townhouse or condominium developments, where there are multiple owners, shall also mean the association responsible for the oversight of the common elements within the development.

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

RESIDENTIAL PROPERTY – means any building or structure, or complex of buildings in which less than ten dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see N.J.S.A. 13:1E-99.13a);

RESIDENTIAL COMPLEX – means any building or structure, or complex of buildings in which ten or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see N.J.S.A. 13:1E-99.13a) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the “Hotel and Multiple Dwelling Law,” P.L.1967, c. 76 (C.55:13A-1 et seq.);

SOURCE-SEPARATED RECYCLABLE MATERIALS – means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

SOURCE SEPARATION – means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

B. Unless otherwise defined herein, certain words or terms used in this SECTION shall have the same meaning as such words or terms have in the New Jersey Statewide Mandatory Source Separation and Recycling Act, as amended (N.J.S.A. 13:1E-9.11 et seq.).

12-3.2 MUNICIPAL RECYCLING COORDINATOR

A. In order to carry out the requirements of the New Jersey Mandatory Source Separation and Recycling Act (“Act”) and the Hunterdon County Recycling Plan (“County Plan”), the position of Municipal Recycling Coordinator is hereby established, to be responsible for compliance with said Act, Plan and applicable Township regulations.

B. The responsibilities of the coordinator, in cooperation with the Environmental Commission, shall include, but not be limited to, developing and implementing regulations hereunder, as approved by Township Committee.

C. The Recycling Coordinator shall be appointed by the Township Committee and shall serve for a one-year term, effective January 1 of the year of appointment, at a salary to be determined by ordinance of the Township.

D. The Municipal Recycling Coordinator in cooperation with the Environmental Commission shall promote the Municipal Recycling Program by educating citizens, businesses, institutions, and organizations of the need to participate in the Municipal Recycling Program and shall explain to citizens, businesses, institutions, and organizations the provisions of the mandatory recycling ordinance and assist in the enforcement thereof.

E. The Recycling Coordinator will report to the Township Committee and/or the Township Administrator at least once annually on the status of the Municipal Recycling Program, and shall from time to time advise and make recommendations in cooperation with the Environmental Commission as to how the requirements set forth in this ordinance may be effectuated.

12-3.3 REGULATIONS AND ENVIRONMENTAL COMMISSION RESPONSIBILITIES

A. The Township Committee is hereby authorized and directed to establish and promulgate reasonable regulations as to the selection and designation of recyclable materials to be source separated in accordance with the SECTION, state law, and any applicable district recycling plan and to establish the manner, methods and programs for the collection and disposition of designated recyclable materials in accordance with the provisions thereof. Such regulations as may be promulgated under this SECTION may be changed, modified, amended, or repealed by

the Township Committee. The Environmental Commission may make recommendations to the Township concerning these regulations.

B. The Environmental Commission shall make reasonable efforts to publicize these regulations and to keep the public informed about all possibilities to participate in the recycling effort.

C. The Environmental Commission, through the Municipal Recycling Coordinator, shall report annually to the Township Committee on the status of the recycling program, provide a summary of the recycling activity of the past year, and project the recycling operations planned for the coming year. This will include an annual report to be delivered to the Township Committee.

12-3.4 RECYCLING PROCEDURES AND SOURCE SEPARATION

A. Mandatory source separation; preparation of designated recyclables. From and after the date fixed by regulations promulgated by the Township Committee as recommended by the Environmental Commission, in accordance with the provisions hereof, it shall be mandatory for all persons who are owners, tenants, or occupants of residential or nonresidential premises located within the Township of Delaware to separate designated recyclable material from all other solid waste produced by the residential or nonresidential premises occupied by such persons and to prepare such designated recyclable materials for curbside collection or drop off at a recycling center to be designated by the Township, or for separate disposition as provided under § 2-3.7 and § 2-3.14 of this SECTION.

B. Curbside collection. Each type of designated recyclable material shall be kept separate and apart (unless otherwise designated per the Township Committee with input from curbside collection service), and from other solid waste generated by the premises, and shall be placed at the curb by the residential premises in a manner and on such days and at such times as may be hereinafter established by curbside recycling service. The occupier of the premises is responsible to make sure containers are accessible and protected for collection purposes. Every owner and/or occupant of residential or nonresidential premises must contract with a private contractor for the removal and disposition of designated recyclable materials as set forth in this ordinance. Residential recycling contracts must comply with the provisions of this Section and must further provide recycling pick-up for not less than every two weeks.

C. Drop off at designated local, county, or state facility. Each type of designated recyclable material to be dropped off at a recycling area pursuant to regulations adopted under this SECTION should be kept separate and apart from any other type of recyclable material (unless otherwise designated by the Township Committee), and from other solid waste generated by the premises and should be dropped off by the owner or occupier of the premises at the recycling area so designated.

12-3.5 RESIDENTIAL DWELLING COMPLIANCE REQUIREMENT

A. The occupant(s) and owner(s) of any residential property shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting

up and maintaining a recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by Hunterdon County or Delaware Township. Violations and penalty notices will be directed to the occupant. In instances where the violator is not easily identifiable, violations and penalty notices will be directed to the owner/management. The owner/management shall issue notification and collection rules to occupants when they arrive and at least twice annually during their occupancy.

B. Any occupant(s) and/or owner(s) of any residential property failing to abide by the rules and regulations of this section may be fined not less than fifty (\$50.00) dollars nor more than two hundred fifty (\$250.00) dollars for each month of noncompliance. Prior to taking enforcement action pursuant to this section, the Municipal Recycling Coordinator or other enforcement officer shall issue one (1) warning to any occupant who is in violation of this section, which warning shall include educational information regarding proper procedures for recycling.

12-3.6 RESIDENTIAL DWELLING COMPLEXES COMPLIANCE REQUIREMENTS (as defined with ten or more dwelling units; 12-3.1 Definitions)

A. The occupant(s) and owner(s) of any residential property shall be responsible for compliance with this Ordinance. The owner of each residential complex is responsible for providing a recycling depot for the entire complex. The depot shall be equipped with owner or contractor supplied receptacles for each category of designated recyclable material.

B. Any occupant within a residential complex failing to comply with the requirements of this Ordinance may be fined not less than fifty (\$50.00) dollars nor more than two hundred fifty (\$250.00) dollars for each month of noncompliance.

C. The owner/management shall issue notification and collection rules to new tenants when they arrive and at least twice annually during their occupancy.

D. The owner of each residential complex shall report to the Municipal Recycling Coordinator by the second Wednesday of January of each year on the recycling activity of the prior year. The report shall include the amount of recycled material by material type and the vendor or vendors providing recycling service. The information must be supplied to the Municipal Recycling Coordinator and directed to the attention of the Municipal Recycling Coordinator by name and address.

E. Any owner (or his/her agent) failing to abide by the rules and regulations of this section may be fined up to two hundred fifty (\$250.00) dollars for each month of noncompliance. Prior to taking enforcement action pursuant to this section, the Municipal Recycling Coordinator or other enforcement officer shall issue one (1) warning to the owner which is in violation of this section. The warning shall include educational information regarding proper procedures for recycling including instruction as to how the owner can reasonably provide adequate recycling facilities to ensure compliance with this Ordinance.

12-3.7 NON-RESIDENTIAL ESTABLISHMENT COMPLIANCE REQUIREMENTS

A. Commercial, industrial, and institutional establishments are defined as all entities which operate or conduct any business whatsoever which cannot be included within the definitions of a residential dwelling or complex. Every owner and/or occupant of residential or nonresidential premises must contract with a private contractor for the removal and disposition of designated recyclable materials as set forth in this ordinance.

B. All commercial, industrial, and institutional generators of solid waste shall be required to comply with the provisions of this section.

C. Arrangement for collection of designated recyclables shall be the responsibility of the commercial, industrial, or institutional occupant. All commercial, institutional, or industrial property owners which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.

D. Every occupant of a commercial, industrial, or institutional facility or their designee (including solid waste and recycling transporters) shall cooperate in communicating recycling activity. Such communication shall include reporting to the Municipal Recycling Coordinator by the second Wednesday of January for each year on the occupants' recycling activity of the prior year. The report shall include the amount of recycled material by material type and the vendor or vendors providing recycling service. The information must be supplied to the Municipal Recycling Coordinator and directed to the attention of the Municipal Recycling Coordinator by name and address.

E. If the property owner provides recycling collection services for the occupants of the property, the owner or his designee (including solid waste and recycling transporters) shall cooperate in communicating recycling activity. Such communication shall include reporting to the Municipal Recycling Coordinator by the second Wednesday of January for each year on the occupants' recycling activity of the prior year. The report shall include the amount of recycled material by material type and the vendor or vendors providing recycling service. The information must be supplied to the Municipal Recycling Coordinator and directed to the attention of the Municipal Recycling Coordinator by name and address.

F. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

G. Any commercial, industrial, or institutional occupant or owner failing to abide by the rules and regulations of this section may be fined not less than fifty (\$50.00) dollars nor more than one thousand (\$1,000.00) dollars for each month of noncompliance. Prior to taking enforcement action pursuant to this section, the Municipal Recycling Coordinator or other enforcement officer

shall issue one (1) warning to any commercial, industrial, or institutional establishment which is in violation of this section, which warning shall include educational information regarding proper procedures for recycling.

H. All new construction, including pre-construction demolition shall include, as a part of the certificate of occupancy process, a record of the recycled materials used in the process of construction and/or demolition. The report shall include the amount of recycled material by material type and the vendor or vendors providing recycling service.

12-3.8 NEW DEVELOPMENTS OF MULTI-FAMILY RESIDENTIAL UNITS AND COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTIES

A. Any application to the Planning Board, Board of Adjustment, or appropriate governing body, of the Township of Delaware for subdivision or site plan approval for the construction of multi-family dwellings of ten or more units, single family developments of 50 or more units, or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following (not to the exclusion of other requirements):

1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and

2. Location documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Municipal Recycling Coordinator.

12-3.9 PROHIBITION OF THE COLLECTION OF SOLID WASTE MIXED WITH RECYCLABLE MATERIALS

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

B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this SECTION and the local sanitary code.

C. Once placed in the location for collection, no person, other than those authorized by the Township, shall tamper with, collect, remove, or otherwise handle solid waste or designated recyclable materials.

D. Any solid waste collector failing to abide by the rules and regulations of this section may be fined not less than fifty (\$50.00) dollars nor more than one thousand (\$1,000.00) dollars. Prior to taking enforcement action pursuant to this section, the Municipal Recycling Coordinator or other enforcement officer shall issue one (1) warning to any commercial, industrial, or institutional establishment which is in violation of this section, which warning shall include education information regarding proper procedures for recycling.

12-3.10 SOLID WASTE TRANSPORTER REQUIREMENTS

A. A minimum of once a year or when necessary to reflect program or regulatory modifications, solid waste transporters shall notify all customers of the following:

1. What materials are designated to be source separated from solid waste and must be recycled in Hunterdon County and that these items are prohibited in solid waste.

2. That discovery of designated recyclable items in solid waste may result in the waste not being collected and that the generator is subject to a monetary fine.

3. Solid waste transporters are prohibited by law to collect solid waste containing mandated recyclable materials.

4. That documentation of proof of solid waste and recycling collection service must be maintained and that this documentation must be made available to the property owner, municipality, or County upon request.

B. No later than the second Wednesday of January for each year, all solid waste transporters operating in the Township will provide a detailed report of all recycling activities to all commercial, institutional, and industrial solid waste customers. The report will include a breakdown of the materials collected for each of the materials collected. The information must be supplied to the Municipal Recycling Coordinator and directed to the attention of said person by name and address.

C. No later than the second Wednesday of January for each year, all solid waste transporters operating in the Township will provide the Township and the County with a summary of recycling activity in that municipality including totals of all residential, commercial, institutional, and industrial recycling which will then be forwarded to the County by its required date. The report will include a breakdown of the materials collected for each of the materials collected. The information must be supplied to the Municipal Recycling Coordinator and directed to the attention of said person by name and address.

D. Failure of the solid waste transporter to comply with the provisions of this Amendment to the Solid Waste Management Plan and pertinent Municipal Recycling Ordinance shall constitute a violation and subject the solid waste transporters to those penalties as prescribed in this SECTION and State recycling regulations.

12-3.11 PROOF OF PROVISION OF SOLID WASTE AND RECYCLING COLLECTION SERVICES

Pursuant to N.J.S.A. 40:66-5.1, all residential, commercial, industrial, and institutional generators of solid waste must, upon request by the municipality supply proof that solid waste and recycling collection services have been contracted for by the generator. The information requested for proof of service shall include provision of weight receipts or billing statements. The procedure for requesting receipts or other documentation will be as set forth in the regulations promulgated by the Township Committee.

A. Excluded from this requirement are residential generators who use and deliver their recyclable materials to appropriate municipal, county, or state facilities.

12-3.12 ENFORCEMENT

The Municipal Recycling Coordinator or other person(s) so designated by the governing body are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of sorting through containers and opening solid waste bags set outside for pick-up to detect, by sound or sight, the presence of any recyclable material.

12-3.13 OWNERSHIP OF RECYCLABLES

Recyclable materials presented for collection by the Township of Delaware, in accordance with the provisions hereof, shall be and become the property of the Township of Delaware, or its authorized agent. It shall be a violation of this SECTION for any person to collect or pick up or cause to be collected or picked up any such designated presented recyclable materials, except as may be authorized by the Township Committee. Each such collection in violation of this SECTION, from one or more residential or nonresidential premises, shall constitute a separate and distinct violation of this SECTION. Nothing herein shall be construed to prohibit an owner, tenant, or occupant of any residential or nonresidential premises from donating or selling recyclables to any person or entity, whether operating for profit or not profit.

12-3.14 FRANCHISES, CONCESSIONS, OR LICENSES TO COLLECT RECYCLABLES

The Township Committee may, in accordance with the procedures set forth in the Local Public Contracts Law, N.J.S.A. 40:11-1, et seq., enter into agreements to grant a franchise, concession, or license to such qualified persons, partnerships, or corporations to authorize them to collect recyclables at curbside or at the recycling area. The Township Committee may, in its discretion, use Township personnel to collect designated recyclable materials at curbside or at the recycling area and sell same pursuant to the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

12-3.15 LEAVES

Residents are encouraged to allow leaves to degrade naturally on the property on which they are generated. Under the provisions of the Mandatory Source Separation and Recycling Act (N.J.S.A. 13:1E-99.21), leaves are not permitted to be disposed of as waste.

12-3.16 VIOLATIONS AND PENALTIES

Any person, corporation, or entity who violates or neglects to comply with any provision of this SECTION or any regulations promulgated and adopted hereunder, shall, upon conviction

thereof, be punishable by one or more of the following: a fine not to exceed \$1,000.00, a term of imprisonment of not to exceed 90 days, or a period of community service not to exceed 90 days, except that violation of €12-3.5, €12-3.6, €12-3.7, and €12-3.9 shall be punishable as provided therein.

Section 2. Repealer. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of the Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. Adoption. Upon adoption, this Ordinance will be incorporated into and become part of the Revised General Ordinances of the Township of Delaware.

Section 5. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to the Laws of the State of New Jersey.

ATTEST:

George Hrehowesik, Mayor

Judith A. Allen, RMC
Township Clerk
December 13, 2010
Published 12/16/10

PLEASE TAKE NOTICE that the above Ordinance was approved on first reading at a Regular Meeting of the Delaware Township Committee held on December 13, 2010. It will be considered on second reading for final adoption at a Regular Meeting to be held December 27, 2010 beginning at 8:00 p.m. at Township Hall, 570 Rosemont Ringoes Road (Rt. 604), Sergeantsville, NJ. At that time an opportunity will be given for all interested citizens to be heard.