

RAPHO TOWNSHIP
LANCASTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2014-2

**AN ORDINANCE AMENDING THE RECYCLING PROGRAM WITHIN
THE TOWNSHIP OF RAPHO, LANCASTER COUNTY,
PENNSYLVANIA, IN ACCORDANCE WITH THE LANCASTER
COUNTY SOLID WASTE MANAGEMENT PLAN AND THE
REQUIREMENTS OF ACT 101 OF THE COMMONWEALTH OF
PENNSYLVANIA**

WHEREAS, the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, as amended ("Act 97"), established a comprehensive planning and regulatory framework for the storage, collection, transportation, processing and disposal of solid waste, including municipal waste; and

WHEREAS, pursuant to the requirements of Act 97 and the request of each municipality within Lancaster County ("County"), the Board of Commissioners of the County ("County Board") prepared and adopted the 1986 Lancaster County Solid Waste Management Plan ("1986 Plan"); and

WHEREAS, the 1986 Plan was (a) adopted by each municipality within Lancaster County and (b) approved by the then Pennsylvania Department of Environmental Resources; and

WHEREAS, the 1986 Plan provided for a comprehensive and integrated County-wide system for solid waste management ("System") which included, *inter alia*, (a) construction of a resource recovery facility for incineration of municipal waste and generation of energy, (b) expansion of the then existing Creswell Landfill, (c) construction of transfer facilities throughout the County, and (d) development of a recycling program; and

WHEREAS, in order to implement the 1986 Plan and finance the System the County and each municipality within the County (a) enacted certain waste flow control ordinances and (b) entered into a joint cooperation agreement ("Inter-Municipal Agreement"); and

WHEREAS, the 1986 Plan (a) determined that it was in the public interest for solid waste management and disposal to be a public function, (b) established the Lancaster County Solid Waste Management Authority ("LCSWMA") and (c) designated LCSWMA as the public agency responsible for designing, financing, constructing and operating the System; and

WHEREAS, the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 528, No. 101 ("Act 101") was approved on July 28, 1988; and

WHEREAS, Act 101 gave certain municipalities, including Rapho Township, the responsibility for developing and implementing within their boundaries a source separation and

collection program for recyclable materials and a system for the collection of municipal waste; and

WHEREAS, pursuant to Act 101 and the request of the County Board, the Lancaster County Solid Waste Management Authority has prepared (as a revision to the 1986 Plan) the Lancaster County Municipal Waste Management Plan of 1990 (“1990 Plan”); and

WHEREAS, the 1990 Plan provides for the establishment and implementation by certain municipalities of source separation and collection program for recyclable materials in order to conform to Act 101 and to support and maintain the System; and

WHEREAS, Rapho Township has ratified the 1990 Plan; and

WHEREAS, Rapho Township and the County have (a) engaged in mutual and beneficial cooperation and coordination under the 1986 Plan and the Inter-Municipal Agreement and (b) have effected an effective, efficient, reliable and environmentally safe system for the storage, collection, transportation, processing and disposal of municipal waste; and

WHEREAS, pursuant to Act 101 and the request of the County Board, LCSWMA has prepared (as revisions to the 1990 Plan) the Lancaster County Municipal Waste Management Plan of 1999 (the “1999 Plan”) and the Lancaster County Municipal Waste Management Plan of 2010 (the “2010 Plan”); and

WHEREAS, it is desirable and appropriate to continue such cooperation by implementing a recycling program and a municipal waste collection system which is consistent with the 1990 Plan, the 1999 Plan, the 2010 Plan, the Inter-Municipal Agreement, the System and Act 101;

NOW, THEREFORE, it is hereby enacted and ordained by Rapho Township as follows:

Section 1. Definitions

Any capitalized term, if not defined in this Ordinance, shall have the meaning as from time to time set forth in the LCSWMA Rules and Regulations which are incorporated into this Ordinance by reference. In addition, as used in this Ordinance, the following terms shall have the following meanings:

“Act 97” - The Solid Waste Management Act, Act of July 7, 1980, P.S. 380, No. 97, as now or hereafter amended, 35 P.S. §6018.101 et seq.

“Act 101” - The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101, as now or hereafter amended, 53 P.S. §4000.101 et seq.

“Aluminum” - All food and beverage cans made of the light in weight, ductile and malleable metallic substance or element commonly known as aluminum. This description excludes aluminum foil, trays, plates, and miscellaneous aluminum products.

“Battery Bags” - Bags which LCSWMA makes available to Generators of Municipal

Waste and which shall be used as disposal containers for batteries which are generated in households.

“Clear Glass” - Clear Glass consists only of clear food and beverage containers made of glass, of one gallon or less capacity, and comprised of the hard, brittle and transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda and lime and/or other chemicals and substances usually included in the manufacture of glass.

“Colored Glass” - Colored Glass consists only of green or brown food and beverage containers made of glass, of one gallon or less capacity, and comprised of the hard, brittle and transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda and lime and/or other chemicals and substances usually included in the manufacture of glass.

“Commencement Date” - The date upon which the current and each subsequent Municipal Contract collection services begin.

“Commingled” - Designated Recyclable Materials (a) which have been segregated from Regulated Municipal Waste, but have not been separated into different types of Recyclable Materials and (b) which have been placed in a Recycling Container for the purpose of collection.

“Community Activities” - Events that are sponsored by public or private agencies or individuals, including but not limited to, fairs, bazaars, socials, picnics and organized sporting events attended by 200 or more individuals per day.

“Composting” - The process by which solid organic waste is biologically decomposed under controlled aerobic or anaerobic conditions to yield a humus-like product.

“Construction/Demolition Waste” - A portion of Municipal Waste resulting from the construction or demolition of buildings and other structures, including wood, plaster, drywall and wall board, metals, asphaltic substances, bricks, block and unsegregated concrete. The term also includes street sweepings and Non-Friable Asbestos Waste. The term does not include the following if they are separated from other Waste and used as clean fill: (i) uncontaminated soil, rock, stone, gravel, brick, block, concrete, and used asphalt or (ii) waste from land clearing, grubbing and excavation including trees, brush, stumps and vegetative material.

“Contractor” - The Person providing Municipal Contract Waste and Designated Recyclable Materials collection services under the Municipal Contract.

“Corrugated Cardboard” - Unbleached, unwaxed kraft paper that is formed into layers with a fluted medium and manufactured into shipping boxes and related products.

“County” - The County of Lancaster, Pennsylvania.

“Curbside” - The correct location for the placement of Refuse Containers and Recycling Containers for the purpose of collection by the Contractor under the Municipal Contract, and by

Permitted Collectors at Residential Units, Multi-Family Units and Non-Residential Units, which shall be (a) adjacent to the Unit and (b) no more than five (5) feet from the public street used by collection vehicles.

“Customer” - A Person with an agreement for on-site collection of Solid Waste generated by such Person or within a Residential Unit, Multi-Family Unit or Non-Residential Unit occupied by such Person.

“Designated Recyclable Materials” - Those Source Separated Recyclable Materials designated in Section 6 of this Ordinance.

“Existing Contract” - Any Contract for the storage, collection, transportation, processing or disposal of Regulated Municipal Waste or Designated Recyclable Materials generated or located within the Municipality which (a) was legally entered into prior to the effective date of this Ordinance and (b) when entered into was legally enforceable.

“Extra Refuse Containers” - Refuse Containers which are in excess of the number of Refuse Containers per collection site limit in the Municipal Contract.

“Extra Service Tag” - A label which shall be affixed to Tires, White Goods, Oversized Refuse Items, Yard Waste and Extra Refuse Containers in order for such items to be collected by the Contractor.

“Facility” - Any specific site designated by LCSWMA (or approved by LCSWMA) as the specific place or site to which Solid Waste or Source Separated Recyclable Materials, or any portion of Solid Waste or Source Separated Recyclable Materials, must or may be delivered; or in the absence of a specific site being designated by LCSWMA, any approved site for the delivery of any category of Solid Waste or Source Separated Recyclable Materials.

“Farm” - A tract of land containing ten (10) or more acres which is used for agricultural purposes, which agricultural activities provide the major and primary source of income to the residents of the tract.

“Generator” - A Person who produces or creates any Solid Waste.

“Hazardous Waste” - Garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operations, and from community activities, or a combination of these factors, which because of its quantity, concentration, or physical, chemical or infectious characteristics may (i) cause or significantly contribute to an increase in mortality or morbidity in either an individual or the total population; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

The term does not include (a) coal refuse as defined in the Coal Refuse Disposal Control

Act (52 U.S.C.A. §§30.51-30.62), (b) treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on under and in compliance with a valid permit issued under the Clean Streams Law (35 P.S. §§691.1691.1001), (c) solid or dissolved material in domestic sewage, (d) solid dissolved materials in irrigation return flows, (e) industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act (33 U.S.C.A. §1342), or (f) source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C.A. §§2011-2394).

“High Grade Office Paper” - Desktop generated paper limited to white ledger, copy paper, and computer printout (CPO).

“Household Hazardous Waste” - A portion of Municipal Waste that would be considered hazardous under Act 97 but for the fact that it is produced in quantities smaller than those regulated as Hazardous Waste under Act 97 and is generated by Persons not otherwise covered as Hazardous Waste Generators by Act 97. Household Hazardous Waste includes the following materials and other materials of a similar nature (i) anti-freeze; (ii) batteries; (iii) chlorinated hydrocarbons; (iv) fluorescent light bulbs and other mercury-containing devices; (v) gasoline and kerosene; (vi) grease and rust solvents; (vii) oven, toilet and drain cleaners; (viii) paints, rust preventatives, stains and wood preservatives; (ix) pesticides, fungicides, herbicides, insecticides, rodenticides, roach and ant killers; (x) photographic and pool chemicals; (xi) thinners, solvents and furniture strippers; (xii) transmission and brake fluids; (xiii) used oil or other hydrocarbon based lubricants; and (xiv) wood, metal, rug and upholstery cleaners and polishes.

“LCSWMA” - The Lancaster County Solid Waste Management Authority, a municipal authority organized and existing under the Municipality Authorities Act, as amended.

“LCSWMA Facility” - Any Facility owned or operated by or on behalf of LCSWMA.

“Manifest” - A form supplied by LCSWMA to be completed and signed by each Person who collects or transports Solid Waste or Source Separated Recyclable Materials and which specifies, inter alia, (a) the source, type, quantity and delivery point for the Solid Waste or Source Separated Recyclable Materials, (b) the applicable license number and (c) other pertinent information.

“Multi-Family Unit” - A property with four (4) or more Residential Units including, without limitation, apartment complexes, condominium complexes, retirement homes and mobile home parks, excluding Farms.

“Municipal Contract” - The agreement between the Municipality and a Permitted Collector under which collection services are to be provided to Residential Units for Municipal Contract Waste and for Designated Recyclable Materials.

“Municipal Contract Waste” - Those portions of Regulated Municipal Waste which are to be collected and disposed of under this Municipal Contract. Municipal Contract Waste consists exclusively of Refuse and Oversized Refuse items.

“Municipal Customer” - An Owner or Occupant of a Residential Unit electing to receive the collection services for Municipal Contract Waste and Designated Recyclable Materials under the Municipal Contract.

“Municipality” - The Township of Rapho, Lancaster County, Pennsylvania, 971 N. Colebrook Rd., Manheim, PA 17545.

“Municipality’s Policies and Procedures” - The rules and regulations adopted and revised from time to time by the Municipality which govern and pertain to (a) the Municipality’s Solid Waste and Recycling program, and (b) the on-site collection or storage of Regulated Municipal Waste within the Municipality.

“Newsprint” - Paper which has been used for the production of daily, weekend and special edition publications commonly known as newspapers.

“Non-Processable Waste” - Non-Processable Waste is a portion of Municipal Waste consisting of materials which cannot be handled by LCSWMA’s normal processing or disposal methods. Non-Processable Waste includes items greater than six feet (6') in any dimension such as mattresses, large furniture and recreational vehicles. Non-Processable Waste (oversized) may consist of large auto parts, machines, and any other items deemed appropriate by LCSWMA.

“Non-Residential Units” - All commercial, municipal and institutional establishments, all Community Activities, and all Farms, excluding Residential Units and Multi-Family Units.

“Oversized Refuse Items” - Refuse which will not fit into Refuse Containers but which is not Non-Processable Waste, including small furniture, carpet, and the like, but excluding Tires and White Goods.

“Open Burning” - A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.

“Other Customer” - An Owner or Occupant of a Residential Unit electing not to receive collection services under the Municipal Contract and that independently contracts with a Permitted Collector for the collection of Regulated Municipal Waste and Designated Recyclable Materials.

“Paper & Paperboard” - Newspaper inserts, empty food and tissue boxes, magazines, catalogs, brochures, telephone books, mixed office paper, envelopes and junk mail, other paper without wax liners, paper bags, and other acceptable grades of recyclable paper as determined by the market.

“Permitted Collector” - A Person who is in possession of all pertinent permits and licenses which may be required by (a) the Commonwealth of Pennsylvania and LCSWMA for the off-site collection, transportation, storage or disposal of Solid Waste or Recyclable Materials and (b) the Municipality for the on-site collection of Solid Waste or Recyclable Materials generated within the Municipality.

“Person” - Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

“Plastics” - Recyclable Plastics are (i) screw top and narrow neck bottles, jars and jugs and (ii) other plastics that have been separated for the purpose of Recycling.

“Putrescible Waste” - A portion of Municipal Waste consisting of organic waste materials which due to biological decomposition are, or have a tendency to be, rotten, foul, or odorous, including dead animals and spoiled foods, but not including sludge.

“Recyclable Materials” - Any material which would be Regulated Municipal Waste but for Source Separation and which will be processed into raw materials or products which are beneficially reused.

“Recycling” - The separation, collection, recovery and sale or reuse of metals, glass, paper, yard waste, plastics and other materials which would otherwise be disposed of or processed as Solid Waste, or the mechanized separation and treatment of Solid Waste and creation and recovery of reusable materials or energy.

“Recycling Container” - Refers to a receptacle which is constructed of plastic, metal or fiberglass and has handles of adequate strength for lifting which is utilized for recyclable materials.

“Refuse” - Refuse is that portion of Regulated Municipal Waste except: (a) construction/demolition waste; (b) non-processable waste; (c) putrescible waste; and (d) household hazardous waste.

“Refuse Container” - A receptacle which is (i) constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting and having a tight fitting lid capable of preventing entrance into the container by vectors or (ii) a polyethylene bag which (a) is specifically designed for storage and collection, (b) is protected against animal damage and overloading so as to prevent littering or attraction of insects or rodents, and (c) has a holding strength capable of withstanding normal stresses until it is collected. With respect to Residential Units, the weight of a Refuse Container and its contents shall be in accordance with the Municipality’s Policies and Procedures.

“Regulated Municipal Waste” - Any Solid Waste generated or collected within the Municipality which is garbage, refuse, industrial lunchroom or office waste, and other material, including solid, liquid, semisolid or contained gaseous material, 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 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include Designated Recyclable Materials or Unacceptable Waste.

“Residential Unit” - Any single-family detached, semi-detached or townhouse dwelling,

or a dwelling unit within a Multi-Family building containing three (3) or fewer dwelling units, excluding Farms. When used in this Ordinance or the Municipality's Policies and Procedures, the term Residential Unit shall also refer to any Multi-Family Unit or Non-Residential Unit that requests and receives approval from the Municipality to use the collection services provided under the Municipal Contract.

“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 does not include (a) coal refuse as defined in the Coal Refuse Disposal Control Act or (b) treatment sludge from coal mine drainage treatment plants, disposal of which is being carried on under and in compliance with a valid permit issued under the Clean Streams Law.

“Scavenging” - The removal of Designated Recyclable Materials in violation of Section 12 of this Ordinance.

“Single Stream” - A system where Recyclable Materials; commonly fibers and glass, metal and plastic containers; are collected and processed together.

“Solid Waste or Waste” - Any waste, including but not limited to Municipal, Residual, or Hazardous Wastes, including solid, liquid, semisolid or contained gaseous materials.

“Source Separate” or “Source Separation” - The process of separating, or the separation of, Designated Recyclable Materials from other Solid Waste at the location where generated for the purpose of Recycling.

“Steel Cans” - The ferrous metal food or beverage containers commonly known as tin cans.

“Tires” - Any pneumatic rubber automobile, truck, or farm implement tire.

“Unacceptable Waste” - The following types of Solid Waste are Unacceptable Waste unless approved by LCSWMA on a case-by-case basis: (i) chemotherapeutic waste; (ii) drums, barrels, buckets and paint cans unless lids have been removed and interiors are cleaned and free of any residue; (iii) explosives and ordnance materials; (iv) gas cylinders, unless empty and delivered separate from other solid waste; (v) hazardous waste; (vi) infectious/pathological waste; and (vii) radioactive materials.

“White Goods” - A portion of Regulated Municipal Waste consisting of large appliances, including the following: clothes washers, clothes dryers, dishwashers, freezers, refrigerators, stoves, ovens, hot water heaters, air conditioners, dehumidifiers, furnaces, and electrical heaters.

“Yard Waste” - All garden residues, leaves, shrubbery, tree trimmings, and sod.

Section 2. Mandatory Recycling

All persons within the Municipality shall Source Separate Designated Recyclable Materials generated by such Person or generated within a Residential Unit, Multi-Family Unit or Non-Residential Unit occupied by such Person.

Section 3. On-site Collection and Disposal

Each Person who owns a Residential Unit, Multi-Family Unit or Non-Residential Unit within the Municipality shall ensure that Regulated Municipal Waste and Designated Recyclable Material generated at such Residential Unit, Multi-Family Unit or Non-Residential Unit are collected and disposed of in accordance with this Ordinance, the Municipality's Policies and Procedures, and LCSWMA Rules and Regulations.

Section 4. Residential Units

(a) Election. Each Owner of a Residential Unit shall have one opportunity prior to the Commencement Date to elect whether to receive on-site collection services under the Municipal Contract. Persons who first own a Residential Unit after the Commencement Date shall have thirty (30) days to elect whether to receive on-site collection services under the Municipal Contract after notification from the Municipality of the Municipal Contract and its terms. Upon occupancy of newly constructed Residential Units, the owner shall have the opportunity to elect or not elect to receive collection services under the Municipal Contract. Residential Units electing to receive such services shall be governed by the rules of Section 4.b. below. Residential Units electing not to receive such services shall be governed by Section 4.c. below.

(b) Owners of Residential Units Electing to Receive Municipal Contract Services (Municipal Customers). On-site collection services for Municipal Contract Waste and Designated Recyclable Materials shall be provided to Municipal Customers by the Contractor. Municipal Customers shall not during the term of the Municipal Contract enter into any independent agreement with any Permitted Collectors for the on-site collection of Municipal Contract Waste or Designated Recyclable Materials.

(i) Each Municipal Customer shall prepare Designated Recyclable Materials and Municipal Contract Waste for on-site collection in accordance with the Municipality's Policies and Procedures. Refuse Containers shall be placed at Curbside in a manner such that the Refuse Containers shall not spill, tip or otherwise deposit Refuse on the street or ground. Extra Refuse Containers shall be marked with an Extra Service Tag in accordance with the Municipality's Policies and Procedures.

(ii) Municipal Customers shall insure proper on-site collection and disposal of Regulated Municipal Waste which is not Municipal Contract Waste by either (1) themselves delivering such materials to a Facility or (2) utilizing a Permitted Collector to collect and deliver such materials to a Facility.

(c) Owners of Residential Units Electing Not to Receive Municipal Contract Services

(Other Customers). Other Customers shall provide proper on-site collection and disposal of Regulated Municipal Waste and Designated Recyclable Materials generated at such Residential Units by utilizing a Permitted Collector to collect and deliver such materials to a Facility, except as provided in Section 9 herein. Refuse Containers shall be placed for on-site collection by Permitted Collectors in a manner such that the Refuse Containers shall not spill, tip or otherwise deposit Refuse on the street or ground.

Section 5. Multi-Family Units and Non-Residential Units

(a) Each Person who owns or occupies a Multi-Family Unit or Non-Residential Unit shall provide proper on-site collection and disposal for Regulated Municipal Waste and Designated Recyclable Materials by utilizing a Permitted Collector to collect and deliver such materials to a Facility. With respect to Municipal Contract Waste and Designated Recyclable Materials, a Person who owns a Multi-Family Unit or Non-Residential Unit may request Municipality approval to receive the services under the Municipal Contract.

(b) Each Person who owns or occupies a Multi-Family Unit or Non-Residential Unit approved to receive services under the Municipal Contract shall comply with the Municipality's Policies and Procedures established for Residential Units and, notwithstanding the provisions of Section 6.b. and 6.c. of this Ordinance, shall Source Separate the Recyclable Materials designated in Section 6.a.

(c) Each Person who owns a Multi-Family Unit or Non-Residential Unit that does not receive services under the Municipal Contract shall:

(i) Provide Recycling Containers at easily accessible locations for Source Separation of Designated Recyclable Materials;

(ii) Provide written instructions to all Persons occupying each Multi-Family Unit and Non-Residential Unit to ensure that all Designated Recyclable Materials are Source Separated; and

(iii) Provide collection of Source Separated Designated Recyclable Materials at a frequency of not less than once per month.

Section 6. Designated Recyclable Materials

(a) Each Person who owns or occupies a Residential Unit shall at a minimum, Source Separate the following Recyclable Materials: (i) Clear Glass, (ii) Colored Glass, (iii) Aluminum, (iv) Steel Cans, (v) Plastic, (vi) Newsprint, (vii) Paper & Paperboard, (viii) Yard Waste, (ix) Tires, and (x) White Goods.

(b) Each Person who owns or occupies a Multi-Family Unit shall at a minimum, Source Separate the following Recyclable Materials: (i) Clear Glass, (ii) Colored Glass, (iii) Aluminum, (iv) Steel Cans, (v) Plastic, (vi) Newsprint, (vii) Paper & Paperboard, (viii) Yard Waste, (ix) Tires, and (x) White Goods.

(c) Each Person who owns or occupies a Non-Residential Unit shall at a minimum, Source Separate the following Recyclable Materials: (i) Clear Glass, (ii) Colored Glass, (iii) Aluminum, (iv) Steel Cans, (v) Plastic, (vi) Newsprint, (vii) Paper & Paperboard, (viii) Yard Waste, (ix) High Grade Office Paper, (x) Corrugated Cardboard, (xi) Tires, and (xii) White Goods.

Section 7. General Requirements for Placement and Collection of Regulated Municipal Waste and Designated Recyclable Materials

(a) All Persons who own or occupy Residential Units, Multi-Family Units or Non-Residential Units shall comply with the following requirements;

(i) No Regulated Municipal Waste or Designated Recyclable Materials shall be placed at Curbside for collection more than twenty-four (24) hours in advance of the scheduled time for collection. Refuse Containers must be picked up no more than twenty-four (24) hours after collection.

(ii) Regulated Municipal Waste or Designated Recyclable Materials from Residential Units shall not be stored at Curbside prior to collection. Regulated Municipal Waste or Designated Recyclable Materials shall be stored in containers which shall prohibit the contents from being scattered by wind and rain and shall prohibit accessibility by rodents or other vermin.

(iii) Regulated Municipal Waste and Designated Recyclable Materials from Multi-Family Units and Non-Residential Units may be placed in bulk containers of suitable size, shape and material so as to prohibit the contents from being scattered by wind and rain and shall prohibit accessibility by rodents or other vermin.

(b) All Permitted Collectors shall insure that collection of Regulated Municipal Waste and Designated Recyclable Materials shall comply with the following requirements:

(i) Regulated Municipal Waste and Designated Recyclable Materials shall be collected on the same day from Residential Units, and collection shall be made a minimum of once a week.

(ii) On-site Collection from Residential Units shall occur on weekdays during hours established by the Municipality. Notwithstanding the foregoing, Saturday collection will be permitted if a holiday has occurred within a week of the Saturday collection.

(iii) No Regulated Municipal Waste or Designated Recyclable Materials shall be blown, scattered or deposited upon the ground in the process of collection.

(iv) Each Permitted Collector shall collect and deliver, separately to a LCSWMA Facility battery drop-off location, all Battery Bags placed at Curbside by Residential Units.

Section 8. Collector Permit

(a) All Persons who desire to collect on-site, store, process or dispose of Regulated Municipal Waste or Designated Recyclable Materials within the Municipality shall obtain a Collection Permit from the Municipality prior to performance of any such activities.

(b) Every Person desiring a Collection Permit under this Ordinance shall make application to the Municipality. Such application shall include the name and address of the Person making application; proof of a valid license issued by LCSWMA and the Commonwealth of Pennsylvania, identification of other municipalities which have permitted that Person, and whether any licenses have been revoked by LCSWMA or any other municipality which requires permitting of haulers.

(c) Applicants for a Collection Permit to operate as a Permitted Collector within the Municipality shall demonstrate that:

(i) A valid license has been issued by LCSWMA to the applicant.

(ii) Applicant's operation is in conformity in all respects with the rules and regulations of the Pennsylvania Department of Environmental Protection (PADEP), LCSWMA, and all Municipality Ordinances and the Municipality Policies and Procedures.

(iii) Regulated Municipal Waste and Designated Recyclable Materials shall be suitably enclosed or covered in all vehicles to be used so as to prevent roadside littering, attraction of vectors, or the creation of other nuisances.

(iv) All disposal of Regulated Municipal Waste other than Designated Recyclable Materials shall be at a LCSWMA Facility.

(v) All Designated Recyclable Materials shall be recycled and shall not be disposed of as Regulated Municipal Waste.

(vi) Insurance shall be obtained for the applicant's proposed operation in the Municipality. A certificate of insurance demonstrating limits as follows: (a) Required Vehicle Liability Insurance - The minimum liability insurance required under State Law; (b) General Liability - Bodily injury, \$100,000 per occurrence, and property damage, \$100,000 per occurrence; and (c) Worker's Compensation - As required by law.

(vii) All equipment to be used have been properly licensed and inspected, and all operators have valid operator's licenses for the class of vehicle operated.

(d) All Municipality Collection Permits shall be issued for a period of one (1) year or longer.

(e) Collection Permits may be suspended or revoked by the Municipality at any time for just cause. Just cause shall include, but not be limited to, where the Permitted Collector:

- (i) Fails to maintain a valid license issued by LCSWMA;
- (ii) Violates any of the provisions of this Ordinance or the Municipality's Policies and Procedures;
- (iii) Improperly disposes of Designated Recyclable Materials or Regulated Municipal Waste;
- (iv) Scavenges; or
- (v) Fails to perform in good faith all the covenants of any agreement entered into with Municipality Customers or Other Customers.

(f) Any Person who has been denied a Collection Permit or whose Collection Permit has been suspended or revoked may appeal the denial, suspension or revocation to the Municipality. Such appeal shall be made in writing within ten (10) days after such decision has been made. The appeal shall be verified by an affidavit and shall be filed with the Municipality Secretary. The appellant or his representative shall have the right to appear and be heard, if such right is requested in the written appeal. The appeal shall be accompanied by the appeal fee established by resolution or ordinance of the Municipality, and no appeal shall be considered complete without the payment of the appeal fee. A prompt decision on such appeal shall be made by the Municipality.

- (g) Collection Permits are not transferrable to any other Person.

Section 9. Approved Haulers

(a) With respect to (i) Municipal Contract Waste and (ii) Designated Recyclable Materials generated by Municipality Customers, no Person other than the Contractor shall collect, store, process or dispose of such Municipal Contract Waste. With respect to (i) Regulated Municipal Waste other than Municipal Contract Waste which is generated by Municipality Customers and (ii) Regulated Municipal Waste or Designated Recyclable Materials which are generated by Other Customers, Multi-Family Units or Non-Residential Units, no Person other than a Permitted Collector shall collect, store, process or dispose of such Waste. Notwithstanding the foregoing, Municipality Customers who generate Waste other than Municipal Contract Waste and Other Customers may deliver Regulated Municipal Waste or Designated Recyclable materials generated by the Municipality Customer or Other Customer directly to a LCSWMA Facility.

Each Permitted Collector that collects on-site Regulated Municipal Waste or Designated Recyclable Materials generated in any Residential unit, Multi-Family Unit or Non-Residential Unit shall complete monthly LCSWMA Manifests, reporting the amount of Regulated Municipal Waste and Designated Recyclable Materials collected in the Municipality.

(b) No Person who generates, owns or possesses Designated Recyclable Materials or Regulated Municipal Waste shall, by Municipal Contract for collection services or otherwise,

cause, permit or assist in the on-site collection, storage, processing or disposal of such Waste by any Person other than:

(i) The Contractor with respect to Municipal Contract Waste or Designated Recyclable Materials generated by Municipality Customers; and

(ii) A Permitted Collector with respect to Regulated Municipal Waste other than Municipal Contract Waste generated by Municipality Customers, and Regulated Municipal Waste or Designated Recyclable Materials generated by other Customers, Multi-Family Units and Non-Residential Units.

(c) Notwithstanding the provisions of Sections 5.b., 5.c. above, any Person who owns or occupies a Residential Unit or a Farm may request from the Elected Body of the Municipality approval to deliver to a LCSWMA Facility the Regulated Municipal Waste which was generated at such Person's residence or Farm. Approval for any such request for an exception to the requirement of using a Permitted Collector shall be within the sole discretion of the Municipality and in any event shall not be granted absent firm proof by such Person that such Regulated Municipal Waste shall be delivered in a manner that is safe, sanitary and environmentally sound.

(d) Each Permitted Collector that collects on-site Regulated Municipal Waste or Designated Recyclable Materials generated in any Residential Unit shall submit completed monthly LCSWMA Manifests, reporting the amount of Regulated Municipal Waste and Designated Recyclable Materials collected in the Municipality. All such reports shall be provided to LCSWMA monthly, no later than the fifteenth (15th) day of the month following the month in which the Regulated Municipal Waste or Designated Recyclable Materials were collected.

(e) Each Permitted Collector who provides regularly scheduled service for the on-site collection of Regulated Municipal Waste from any Other Customer shall also collect on-site Designated Recyclable Materials from such Other Customer. Each such Permitted Collector shall establish, and shall notify each Other Customer of procedures and collection schedules for the Source Separation, segregation and packaging of Regulated Municipal Waste and Designated Recyclable Materials. Such procedure shall permit commingling of all Aluminum, Clear Glass, Colored Glass, Steel Cans, Paper and Plastics in a single Recycling Container. Each such Permitted Collector shall schedule collections for Yard Waste, Tires and White Goods at least twice annually and shall give each Other Customer and the Municipality at least thirty (30) days advanced notice of the schedule for such collections.

(f) Recycling Containers for Residential Units shall be provided by the Municipality which shall retain title to all such Recycling Containers. The Contractor and Permitted Collectors shall distribute Recycling Containers to all of their Residential Unit Customers in accordance with guidelines established by the Municipality.

(g) Each Permitted Collector shall give written notice to each Customer of such Permitted Collector's obligations under this Ordinance and particularly the requirement to offer on-site collection services for Designated Recyclable Materials.

(h) No Permitted Collector who collects on-site or disposes of Designated Recyclable Materials or Regulated Municipal Waste shall, by contract for such services or otherwise, cause, permit or assist in the storage, collection, processing or disposal of Designated Recyclable Materials in a manner which treats such materials as Regulated Municipal Waste, or which is otherwise inconsistent with Source Separation or Recycling. Any delivery of Designated Recyclable Materials to a LCSWMA Facility in accordance with the LCSWMA Rules and Regulations shall be deemed to satisfy the requirements of this Section 9.h.

(i) All Regulated Municipal Waste and Designated Recyclable Materials generated or collected in the Municipality shall be delivered directly to a Facility in accordance with the LCSWMA Rules and Regulations and without any intervening transfer, unloading, processing, sorting, salvaging, scavenging, or reuse of any portion of any load of such Regulated Municipal Waste and Designated Recyclable Materials from the time of its collection until the time of its delivery to the Facility.

Section 10. Illegal Dumping and Open Burning

(a) No Person shall store, process or dispose of any Regulated Municipal Waste or Designated Recyclable Materials except at a Facility. Notwithstanding the foregoing, Yard Waste may be composted to the extent and in the manner provided in the Municipality's Policies and Procedures on the property on which such Yard Waste was generated.

(b) No Person shall process or dispose of any Designated Recyclable Materials through Open Burning.

(c) The following activities are exempt from the Open Burning prohibition set forth above:

(i) Crop residue, brush, woody debris, shrubs, trees and other natural vegetation generated as an element of any of the following practices may be burned:

(1) Agricultural and land conservation and management practices conducted on a farm;

(2) Agricultural, horticultural and forestry management practices to control insects, diseases and other pests conducted on a farm when approved by applicable governmental agencies; and

(3) Land clearing and grubbing during or prior to the process of construction.

(ii) Woody debris that is used for cooking food, recreational or ceremonial purposes;

(iii) Debris that is approved by permit for Open Burning by a Fire Marshall,

Emergency Services Directive, or the Pennsylvania Department of Environmental Protection;

- (iv) Structures that are used for approved and permitted fire services training activities.

Section 11. Collection Service Fees

Fees for services provided by the Municipality shall be charged to all Municipality Customers. The amount of fees and the schedule for payment of fees shall be as adopted by resolution or ordinance from time to time by the Municipality.

Section 12. Scavenging

From the time of placement for collection at Curbside of any Designated Recyclable Materials, all such Designated Recyclable Materials shall be the property of the Generator, the Contractor or the Permitted Collector who has contracted to provide on-site collection, as provided in the Municipal Contract or Collection Permit. It shall be a violation of this Ordinance for any Person, other than the Contractor or a Permitted Collector, to collect or pick up, or cause to be collected or picked up, any such Designated Recyclable Materials. Each such collection shall constitute a separate and distinct offense.

Section 13. Unauthorized Collection

It shall be a violation of this Ordinance for any Person, not permitted by the Municipality, to collect or pick up, or cause to be collected or picked up, any Regulated Municipal Waste within the Municipality. Each such collection shall constitute a separate and distinct offense.

Section 14. Existing Contracts

(a) Nothing in this Ordinance shall be construed to impair the obligations of any Existing Contract.

(b) No renewal or modification of any Existing Municipal Contract, and no new contract for the storage, on-site collection, processing or disposal of Regulated Municipal Waste or Designated Recyclable Materials, shall be entered into after the effective date of this Ordinance unless such renewal or modification or new contract shall conform to the requirements of this Ordinance and the Municipality's Policies and Procedures.

(c) No contract which is entered into, renewed, extended, modified or assigned after the effective date of this Ordinance shall provide for on-site collection services to be performed after the Commencement Date for Municipal Contract Waste or Designated Recyclable Materials generated by any Municipal Customer. This provision shall not apply to the Municipal Contract between the Municipality and the Contractor. With respect to any contract which violates this Section 214.(c) such contract shall be deemed void and the hauler that is a party to such contract (i) shall reimburse to the applicable Municipal Customer any funds which have been paid for such

collection services and (ii) shall not collect or attempt to collect any funds for such collection services.

Section 15. Authorization of Municipality

The Municipality shall have the power to issue the Municipality's Policies and Procedures governing all matters set forth in this Ordinance and any other related matters deemed necessary or convenient by the Municipality. The Municipality's Policies and Procedures shall be effective when issued in writing and signed by the Board of Supervisors of the Municipality. The Municipality shall have the power to establish service fees, record and reporting requirements, and standards and procedures for the issuance, administration and revocation of licenses, as deemed necessary, including without limitation, (a) application procedures and standards and conditions for licenses, (b) the fixing of a monetary bond, with or without surety, to secure the compliance by any Permitted Collector with any such requirements, standards or procedures, and (c) any other matters deemed necessary or convenient by the Municipality. In the event of suspension or revocation of any license which is issued by the Municipality or LCSWMA, the Person whose license is suspended or revoked shall refund to each Customer any prepaid fees.

Section 16. Unlawful Activity

It shall be unlawful for any Person to violate, or cause or permit or assist in the violation of, any provision of this Ordinance or any provision of the Municipality's Policies and Procedures. All unlawful conduct shall also constitute a public nuisance.

Section 17. Penalty

Any Person violating any provision of this Ordinance or any provision of the Municipality's Policies and Procedures shall, upon conviction thereof in a summary proceeding, be liable to pay a fine or penalty of not less than One Hundred (\$100.00) nor more than One Thousand (\$1,000.00), which fines and penalties may be collected as provided by law. Each violation of any provision of this Ordinance or of any provision of the Municipality's Policies and Procedures, and each day that such a violation continues, shall constitute a separate violation and offense.

Section 18. Persons Liable

For purposes of the obligations established by this Ordinance or the Municipality's Policies and Procedures, and for purposes of any fine, penalty, imprisonment or other sanction, the terms Person, Municipal Customer, Other Customer, Residential Unit, Multi-Family Unit and Non-Residential Unit shall (i) include officers, directors and partners of any corporation or partnership or other legal entity having officers, directors or partners and (ii) refer to, and impose joint and several liability upon, both (a) the Persons residing in or occupying any such Residential, Multi-Family or Non-Residential Units and (b) the owner, landlord, condominium owner's association and/or agent of an owner, landlord or condominium owner's association of such premises.

Section 19. Injunctive Relief

In addition to any other remedy provided in this Ordinance, the Municipality may institute proceedings to restrain any violation of, or to require compliance with, this Ordinance and/or the Municipality's Policies and Procedures.

Section 20. Concurrent Remedies

The penalties and remedies set forth in this Ordinance are in addition to, not in lieu of, any fines, penalties or remedies provided in the Municipality's Policies and Procedures. The existence or exercise of any remedy shall not prevent the Municipality from exercising any other remedy provided under this Ordinance or the Municipality's Policies and Procedures, or available at law or equity including the filing of a lien for the nonpayment of service fees.

Section 21. Prior Ordinances

Any other Ordinances which pertain to Regulated Municipal Waste or Designated Recyclable Materials are hereby repealed to the extent of any inconsistency with this Ordinance.

Section 22. Severability

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Municipality that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 23. Effective Date

This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of Rapho as provided by law.

DULY ORDAINED AND ENACTED this 6th day of March, 2014, by the Board of Supervisors of the Township of Rapho, Lancaster County, Pennsylvania, in lawful session duly assembled.

ATTEST:


Secretary

**Township of Rapho
Lancaster County, Pennsylvania**
BY: 
Chairman Board of Supervisors