

Upon motion by Joseph S. Kujawa, seconded by Brian P. McGrath, the following Ordinance was duly enacted, 3 voting in favor of enactment, 0 voting against enactment.

**ORDINANCE NO. 2006-11**

**An Ordinance of the Township of Millcreek, Erie County, Pennsylvania, providing for the collection, transportation and disposition of municipal waste, recyclable materials and leaf waste; defining those recyclable materials to be separated and marketed for recycling; mandating that all generators of municipal waste, recyclable materials and leaf waste assure proper collection and disposition of the same; prohibiting the collection and/or disposal of municipal waste, recyclable materials and leaf waste without a proper registration therefor and establishing duties of registrants; permitting only one entity to collect municipal waste, recyclable materials and leaf waste generated by residential units other than those deemed a commercial pickup and establishing requirements to be met by residents and the retained entity under said contract; requiring that owners and occupants of residential properties pay fees for services as established under a contract awarded to the contracted entity; establishing duties and prohibitions and fines and penalties for violation; and including repealer and severability clauses.**

**WHEREAS**, Sections 2101, et seq. of the Second Class Township Code as reenacted and amended by Act 60-1995, P.L. 350, authorize the Millcreek Township Board of Supervisors to regulate and prohibit the dumping or depositing of ashes, garbage, solid waste and refuse materials, to provide for the collection and disposition thereof and to enter into contracts for services related thereto; and

**WHEREAS**, the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, et seq. (the "Act"), imposes obligations upon municipalities to provide for proper collection, disposal, recycling and/or composting of municipal waste, recyclable materials and leaf waste and authorizes municipalities to contract with any person to carry out municipal duties related thereto; and

**WHEREAS**, the Act requires the governing body of a municipality to adopt an ordinance requiring persons to separate, for the purpose of recycling, materials deemed appropriate by the municipality from other municipal waste generated by homes, apartments and other residential and other use units and to store said material until collection, such materials including those enumerated in the Act; and

**WHEREAS**, it is the general intent and purpose of Millcreek Township to provide a comprehensive municipal waste, source-separated recyclable material and leaf waste collection system whereby a successful bidder (“contractor”) will be given the exclusive franchise to collect and dispose of all municipal waste, source-separated recyclable materials and leaf waste generated by all residential dwellings or units other than those defined as a “commercial pickup”, and to require that all residential units other than those designated as commercial pickups which retain the services of the contractor designated by Millcreek Township pay to said contractor, at the resident’s election, either a fixed quarterly fee for unlimited municipal waste, recyclable material and leaf waste collection or a per-bag fee for such services as is determined by the Board of Supervisors in its award to the residential contract hauler; and

**WHEREAS**, the Board of Supervisors has determined to designate the following as being recyclable materials to be separated, collected and marketed for recycling purposes: clear and colored glass; aluminum, steel and bi-metallic cans; plastics; newspapers; magazines; corrugated cardboard; mixed paper; and mixed cardboard; and

**WHEREAS**, it is the intent of the Board of Supervisors and this Ordinance that all generators of the designated recyclable materials within Millcreek Township shall properly separate and store said recyclable materials and place the same for collection by the residential contractor or other contracted hauler; and

**WHEREAS**, it is the intent of the Board of Supervisors and this Ordinance that all generators of leaf waste separate the same from municipal waste and store said leaf waste for a separate collection by the residential contractor or other contracted hauler; and

**WHEREAS**, the Board of Supervisors intends to establish in this Ordinance provisions necessary to assure the proper separation of recyclable materials and leaf waste from municipal waste; the proper placement of municipal waste, recyclable materials and leaf waste for collection by all owners and occupants of properties in Millcreek Township; the proper collection, transportation and disposition of said materials by contracted and registered haulers; prohibit collection, transportation and disposal of said materials without a registration issued by the Township and establish fees and requirements therefor; establish the requirements imposed upon owners and occupants of residential properties and the contracted hauler under contracts with the Township for collection, transportation and disposition of said materials from residential properties not deemed a commercial pickup; establish duties imposed upon owners and occupants of properties and those collecting regulated materials therefrom; and establish fines and procedures for violation and/or enforcement of this Ordinance; and

**WHEREAS**, pursuant to the Waste Transportation Safety Act, 27 Pa. C.S. § 6201, et seq., the Department of Environmental Protection has undertaken licensure of the transportation of municipal waste and residual waste and the Board of Supervisors finds it necessary to respect such PaDEP authority while ensuring the Township’s ability to meet its duties and enforce its own regulations; and

**WHEREAS**, the Board of Supervisors deems this Ordinance to be necessary and appropriate for the public health, safety and welfare of Millcreek Township.

**NOW, THEREFORE, IT IS ENACTED AND ORDAINED** by the Board of Supervisors of Millcreek Township, Erie County, Pennsylvania, and it is hereby enacted and ordained as follows:

**Section 1 - Short Title**

1.01 This Ordinance shall be named and referred to as the Millcreek Township Municipal Waste and Recycling Ordinance.

**Section 2 - Incorporation of Recitals**

2.01 The recitals above are hereby incorporated in this Ordinance as though restated herein.

**Section 3 - Definitions**

3.01 Definitions established in the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, et seq. and in the Waste Transportation Safety Act, 27 Pa. C.S. § 6201, et seq., shall apply and extend to terms within this Ordinance by reference, unless expressly modified in this Ordinance.

3.02 Words not specifically defined in the Act or in this Ordinance shall be given their reasonable and customary meanings.

3.03 For the purposes of this Ordinance, the following terms shall be defined as follows:

3.03.1 “**Act**” - the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, et seq., as the same may in the future be amended.

3.03.2 “**Aluminum, steel and bi-metallic cans**” - shall include beverage cans, metal food containers and soup cans; shall not include flatware or metal cookware.

3.03.3 “**Ashes**” - shall include coal ashes, coke ashes, wood ashes and ashes resulting from other fuels used for cooking and heating purposes, and shall be deemed included within the term “municipal waste”.

3.03.4 “**Clear and colored glass**” - shall include glass beverage bottles, food jars and containers; shall not include mirrors, ceramic materials, crystal, light bulbs, glass ovenware, drinking glasses, clay pots or window glass.

3.03.5 “**Commercial establishment**” - the place at which any business within the boundaries of Millcreek Township is conducted by any person which, in the operation of such business, has or accumulates municipal waste, recyclable materials and/or leaf waste in or about its place(s) of business or elsewhere. For purposes of this Ordinance, a commercial establishment shall include any business, institutional, industrial or other use excepting only a residential use.

- 3.03.6 **“Commercial pickup”** - shall include all properties aside from residential properties having four or fewer residential or family units within a single structure. That a residential use may be deemed a “commercial pickup” does not render its use other than residential.
- 3.03.7 **“Construction Materials”** - shall include wood, piping, metal, plastics, concrete, cement and other man-made products used in construction which is generated in any business or in the course of construction or renovation of dwellings or other buildings. The exclusion of “construction materials” from materials to be collected by the residential contractor shall not extend to such materials in small quantity generated in the ordinary course by occupants of residential dwellings.
- 3.03.8 **“Disposal”** - shall be deemed to include the deposition, injection, dumping, spilling, leaking or placing of solid or municipal waste into or on the land or water in a manner that the constituent of the waste enters the environment, is emitted into the air or is discharged into the ground or to the waters of the Commonwealth.
- 3.03.9 **“Disposition”** - shall be deemed a generic reference to the proper disposal of municipal waste, recycling and marketing of recyclable materials and/or composting of leaf waste in the manner prescribed in this Ordinance.
- 3.03.10 **“Family”** - shall be and include any person or group of persons maintaining a separate dwelling, apartment or other habitation unit within the limits of Millcreek Township.
- 3.03.11 **“Garbage”** - shall be deemed to consist of and include all vegetable and animal waste, including offal, carcasses, fat, bone, swill and animal and vegetable matter or other organic substance subject to fermentation or decay, resulting from the storage, handling, consumption and/or preparation of food. The term shall not be deemed to include dishwater or other soapy water.
- 3.03.12 **“Hauler”/”Hauling Firm”** - shall mean and include, without limitation, any person, firm, entity or contractor engaged in the collection, transportation and/or disposition of municipal waste, recyclable materials and/or leaf waste in Millcreek Township.
- 3.03.13 **“Household rubbish”** - shall consist of and include old furniture, such paper as is not included in recyclable materials, trunks, stoves, furnace pipe, water boilers, light bulbs, crockery, nonrecyclable cans, bottles and containers, hedge and tree trimmings, garden residues, shrubbery and similar material, grass clippings, pipe and all other rubbish which may accumulate in the ordinary course of use of a residential dwelling, but excluding dirt, trees, tree limbs over four feet (4') in length and construction materials as defined above. The term shall not include designated recyclable materials, and shall be deemed included within the term “municipal waste.”

- 3.03.14 **“Leaf Waste”** - shall include leaves, garden residue, shrubbery and tree trimmings, and similar material, but not including grass clippings.
- 3.03.15 **“Licensed Transporter”** - shall include any person, firm, entity or contractor engaged in the collection, transportation and/or disposition of municipal waste and/or residual waste and subject to licensure and regulation by the Department of Environmental Protection under the Waste Transportation Safety Act.
- 3.03.16 **“Mixed cardboard”** - shall include noncorrugated packaging such as gift boxes, cereal boxes, shoe boxes, tablet backers and the like. Shall not include waxed paper, milk cartons or any material contaminated by food or other municipal waste.
- 3.03.17 **“Mixed paper”** - shall include white paper, envelopes and like paper material, including junk mail, office mix and brown bags. Shall not include waxed paper or any material contaminated by food or other municipal waste.
- 3.03.18 **“Municipal recycling program”** - shall be deemed to mean a source-separation and collection program for recycling recyclable materials, or a program for designated drop-off points or collection centers for recycling municipal waste or source-separated recyclable materials that is operated by or on behalf of a municipality. The term shall include any source-separation and collection program for composting leaf and yard waste. The term shall not include any program for recycling construction or demolition waste and/or sludge from sewage treatment plants or water supply treatment plants. Under this Ordinance, the franchised residential hauling contractor would be designated to operate a recycling program in lieu of Millcreek Township operating such program.
- 3.03.19 **“Municipal waste”** - shall include and mean any garbage, refuse, industrial lunchroom or non-recyclable office waste or other material, including solid, liquid, semi-solid or contained gaseous material, resulting from operation or use of any residential dwelling or unit and/or any commercial establishment and/or other use or activity and any sludge not meeting the definition of residual or hazardous waste in the Act (Section 6018.101, et seq.) from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. This term includes “garbage,” “rubbish” and “solid waste,” but does not include “recyclable materials” and “leaf waste.”
- 3.03.20 **“PaDEP”** - shall mean the Pennsylvania Department of Environmental Protection.
- 3.03.21 **“Person”** - shall mean and include any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, Federal or State government, agency or institution, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a duty, prohibition, fine or penalty, or any combination of the foregoing, the term “person” shall include the officers and directors of any corporation or other entity having officers and/or directors.

- 3.03.22 **“Recyclable materials”** - shall mean and include clear and colored glass; aluminum, steel and bi-metallic cans; recyclable plastics; newspapers tied, bundled or separated in paper or other bags authorized by the hauler; magazines tied, bundled or separated in paper or other bags authorized by the hauler; corrugated cardboard tied or bundled; mixed paper and mixed cardboard.
- 3.03.23 **“Recyclable plastics”** - shall include plastic beverage bottles, ketchup bottles, milk and juice jugs, laundry and dish soap containers and the like. The term shall not include plastic dishware, drinking glasses or toys.
- 3.03.24 **“Recycling”** - shall mean and include the separation from municipal waste at the site of generation, collection, recovery and sale or reuse of metals, glass, newspapers, magazines, corrugated cardboard, mixed paper and mixed cardboard and other materials which would otherwise be disposed of as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than as fuel for the operation of energy.
- 3.03.25 **“Resident”** - shall be deemed to include every resident, owner, householder, tenant, responsible party or person owning or occupying a dwelling, apartment, condominium or place of residence within the Township of Millcreek generating municipal waste, recyclable materials and/or leaf waste, excluding only those persons residing in dwellings having more than four (4) residential units within the same structure and so deemed within the term “commercial pickup”.
- 3.03.26 **“Residential recycling”** - shall include source separation, placement for collection, collection, transportation, recovery and sale or reuse of recyclable materials generated within all dwellings and residential units or uses in Millcreek Township, whether such unit is deemed included within the Township’s contract for residential collection or is deemed a “commercial pickup”.
- 3.03.27 **“Responsible party”** - shall generally mean and include all persons responsible for compliance with the provisions of this Ordinance, including but not limited to provisions regulating collection, transportation and disposition of municipal waste, recyclable materials and leaf waste. The term shall include “resident,” owners, landlords of multi-family rental or condominium residential properties and their agents; owners, landlords of mobile home parks and their agents; condominium unit owners, tenants and/or occupants of multiple unit residential dwellings; and owners, landlords, managers and/or their agents and occupants and/or tenants of commercial, institutional, industrial and public properties.
- 3.03.28 **“Rubbish”** - shall consist of mixed and waste fragments resulting from the use of household necessities, including but not limited to nonrecyclable glass, metal, tin and wood, china, leather, rubber, carpeting, prunings from vines and other foreign matter, but excepting ashes and garbage. Does not include “leaf waste” and/or designated “recyclable materials.”

- 3.03.29 **“Solid waste”** - shall be defined as in the Act.
- 3.03.30 **“Source-separated recyclable materials”** - materials which are separated from municipal waste at the point of origin for the purpose of recycling. Shall generally be deemed to include “recyclable materials” and “leaf waste.”
- 3.03.31 **“Storage”** - shall mean the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any municipal waste in excess of one year constitutes disposal; said presumption may be overcome only by clear and convincing evidence to the contrary.
- 3.03.32 **“Township-designated bags”/ “Bags designated by Township”** - shall mean those bags for separation and placement for collection of leaf waste of a type as shall be designated from time to time by Millcreek Township.
- 3.03.33 **“Transportation”** - the offsite removal of any municipal waste, recyclable materials and/or leaf waste at any time after generation.

## **Section 4 - General Duties and Prohibitions**

### **4.01 General Duties**

Requirements in this Ordinance that municipal waste, recyclable materials and/or leaf waste be separated at the source, placed for collection, collected and transported, that municipal waste be disposed of, recyclable materials marketed and sold for reuse and leaf waste be composted shall apply to all properties in Millcreek Township and to all owners, residents, tenants and/or occupants of such properties and their managers or agents, and to all firms or entities, waste disposal, recycling and composting facilities.

- 4.01.1 Owners, residents, tenants and/or occupants of residential properties having four (4) or fewer dwelling units within the same building shall comply with duties imposed under this Ordinance by contracting with the firm or entity under contract with Millcreek Township for the collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste.
- 4.01.2 The owner, landlord, manager and/or agent therefor of a residential property having more than four (4) dwelling units within the same structure and/or of a manufactured home park, both otherwise within the definition of a “commercial pickup,” shall be deemed responsible parties as to such properties and obligated to make provision and contract for collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste generated upon and about the premises, unless they provide in proper and written fashion that tenants and/or occupants of each unit shall be the responsible party, in which event each such tenant and/or occupant shall be obligated to contract for services with the firm or entity under contract with Millcreek Township for the collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste. Any written notice required under this subsection shall be delivered promptly to the Township and its contractor, and shall include the names and addresses of all affected tenants/occupants and units.
- 4.01.3 Responsible parties for properties deemed a “commercial pickup” must contract with a firm or entity registered by Millcreek Township for collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste generated at or upon said properties and make adequate provision for proper source-separation and placement of said materials for collection.
- 4.01.4 Responsible parties of properties not served by the Township’s residential collection contract shall, within thirty (30) days after occupancy of a property, notify Millcreek Township of either:

- (a) the decision by the owner and/or landlord of a residential property having four (4) or more dwelling units and/or a mobile home park that tenants or occupants thereof shall be deemed responsible parties, in which event such notice must be in writing and identify the names, service and mailing addresses of all tenants, occupants and residential units thereby deemed responsible parties; or
- (b) the name and address of the firm with which said owner, landlord, manager and/or agent has contracted for the collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste.

4.01.5 Any changes in determination of responsible parties for residential properties and/or the firm(s) retained for collection, transportation and disposition of municipal waste, recyclable materials and leaf waste must be confirmed by written notice to Millcreek Township within thirty (30) days after such change is effective.

4.01.6 Reporting requirements established in this Ordinance shall govern and extend to the contractor retained by the Township for general residential collection services and to hauling firms contracting to provide service to multi-unit residential, commercial, industrial, institutional, public and other properties in the Township.

4.01.7 All persons contracting with any hauling firm for the collection and disposition of municipal waste, recyclable materials and/or leaf waste as is permitted in this Ordinance shall be obligated to assure that such firm or entity holds a valid registration issued by Millcreek Township and, as to collection of municipal or residual waste, a waste transporter's license issued by PaDEP.

#### 4.02 General Prohibitions

This section shall not limit or modify provisions of this Ordinance which identify and make provision for specific violations. In addition specific obligations imposed in this Ordinance, the following acts and/or omissions are hereby declared unlawful and are prohibited, subject to the fines and/or penalties imposed in this Ordinance:

4.02.1 No materials shall be allowed to accumulate on the ground nor be deposited on the streets or highways, vacant lots, homes, nor on any land publicly or privately owned, nor be thrown into any stream or body of water in Millcreek Township, except as is expressly permitted in this Ordinance or by other laws.

4.02.2 There shall be no doubling up of families by which more than one residence or family uses a common container(s), except in the case of a commercial pickup and only then by persons intended to be included within such service.

- 4.02.3 Where a residence, apartment, condominium or other residential building is arranged for occupancy by more than four separate dwelling units, failure or refusal by the owner, landlord or manager of said property or agent(s) thereof to furnish proper collection services for municipal waste, recyclable materials and leaf waste generated upon said property, unless said owner, landlord or manager has in proper fashion designated tenants or occupants responsible parties and issued notices required in this Section.
- 4.02.4 Failure or refusal by the owner, landlord, manager, tenant or occupant of a nonresidential property in the Township or agent(s) thereof to furnish proper collection services for municipal waste, recyclable materials and leaf waste generated upon said property.
- 4.02.5 No person shall place recyclable materials for disposal as municipal waste or leaf waste.
- 4.02.6 No person shall burn or cause to be burned any recyclable materials or municipal waste.
- 4.02.7 No person shall place upon any other property municipal waste, recyclable materials or leaf waste not generated upon that property, except for placement of recyclable materials for collection upon one's own property and/or placement of materials at a licensed recycling or composting facility.
- 4.02.8 No person shall collect from any property located in Millcreek Township any municipal waste, recyclable materials and/or leaf waste, nor transport, dispose of, market for recycling or compost such materials without first obtaining a registration therefor from the Township of Millcreek.

#### 4.03 Exceptions

- 4.03.1 This Ordinance shall not be construed to prevent or prohibit any person engaged in the business of farming from maintaining a manure pile on land occupied by him or her, so long as a nuisance does not result from said activity.
- 4.03.2 Nothing herein shall be construed to prohibit any person from building or maintaining a compost pile, consisting of grass clippings, leaves, weeds, soil, hedge and/or shrubbery clippings and other organic material, so long as a nuisance does not result from said activity.
- 4.03.3 This Ordinance shall not be construed to prevent or prohibit any person from taking to a licensed recycling or composting facility recyclable materials and/or leaf waste for which general collection is provided for in this Ordinance.

## **Section 5 - Collection and Disposal Generally**

- 5.01 All municipal waste, recyclable materials and leaf waste generated at and upon all properties located in Millcreek Township shall be separated, placed for collection, collected, transported, disposed of, marketed for recycling and/or composted in accordance with the provisions of this Ordinance.
- 5.02 It shall be the responsibility of the resident, person and/or responsible party upon each property in Millcreek Township generating municipal waste, recyclable materials and/or leaf waste to separate from municipal waste recyclable materials and leaf waste as required in this Ordinance, and to place the same for collection by the residential contractor retained by Millcreek Township or, if applicable, by such firm or entity retained to provide services to a “commercial pickup” property.
- 5.03 All municipal waste, source-separated materials and leaf waste generated by or upon all residential properties and/or units in Millcreek Township other than those designated and maintained as a “commercial pickup” shall be collected, removed and disposed, marketed for recycling or composted only by the contractor retained under Articles of Agreement (“Township contract”) under the terms and conditions set forth in said contract, this Ordinance and the contract specifications and bid blank.
- 5.03.1 It shall be a violation of this Ordinance for any person other than the entity retained under the Township contract to collect, remove, transport or dispose of municipal waste, source-separated recyclable materials and/or leaf waste generated by residential units in Millcreek Township other than those designated and maintained as a “commercial pickup.”
- 5.03.2 Contracts for the collection, removal, transportation and proper disposition of municipal waste, source-separated recyclable materials and/or leaf waste under this Ordinance shall, from time to time, be let to the lowest responsible bidder, with or without advertising, which contract(s) shall contain, in addition to the requirements of this Ordinance, such other provisions not in conflict with this Ordinance as may be deemed advisable by the Board of Supervisors to incorporate therein, and it shall be executed by the Chair of the Board of Supervisors. No contract therefor shall be awarded for a period exceeding five (5) years.

## **Section 6 - Collection at Source of Municipal Waste, Recyclable Materials and Leaf Waste**

- 6.01 All persons (including adults, parents, owners, occupants, head of households, residents, responsible parties, operators, landlords, tenants or agents of all properties of any type located in Millcreek Township shall separate or be responsible for the separation of municipal waste from recyclable materials and leaf waste generated upon or about such property and for the proper temporary storage of such source-separated materials until placement for collection by the Township's residential contractor or, as to commercial pickups, by the retained registered hauling contractor therefor in the manner prescribed in this Ordinance or by the owner of a commercial pickup property and its hauling contractor.
- 6.02 All owners and occupants of properties of any type located in Millcreek Township shall provide and maintain containers, as required in this Ordinance, for all municipal waste, recyclable materials and/or leaf waste generated or accumulated upon such properties.
- 6.03 The following requirements shall be applicable generally to all properties and to their owners, occupants, landlords, tenants, managers, residents and agents:
- 6.03.1 Garbage or municipal waste containers ("garbage containers") shall be used only for garbage and municipal waste materials, as defined in this Ordinance.
- 6.03.2 All garbage shall be wrapped in paper or within a plastic bag prior to being placed in a garbage container.
- 6.03.3 No more water shall be allowed nor permitted in garbage or municipal waste than naturally accumulates from the refuse materials.
- 6.03.4 All garbage cans and receptacles shall be kept in a sanitary condition, in places accessible to the collector and with sufficient shelter to prevent their freezing to the ground.
- 6.03.5 All municipal waste, recyclable materials and leaf waste shall be kept in places accessible to the collector and in such containers or bags to be provided by the resident, owner, landlord, tenant or occupant of the property so that said materials may be readily and properly removed by the collector.
- 6.03.6 All items designated in this Ordinance as recyclable materials shall be separated from municipal waste and leaf waste, shall be clean of food waste and foreign material and shall be separated for proper collection as required in this Ordinance or, as to commercial pickups, as required by the hauler and the responsible party.
- 6.03.7 Leaf waste shall be separated from municipal waste and recyclable materials and shall be placed for proper collection as required in this Ordinance or, as to commercial pickups, as required by the hauling contractor and responsible party and, in all cases, shall be stored and placed for collection in Township-designated bags distinguishing leaf waste from municipal waste and/or recyclable materials.

- 6.03.8 It shall be a violation of this Ordinance and unlawful for any person to accumulate or store, or allow accumulation or storage of municipal waste, recyclable materials and/or leaf waste in such manner as to give rise to a nuisance, and any such accumulation or storage shall constitute violations of this Ordinance and of the Nuisance Ordinance, and be subject to provisions of the Nuisance Ordinance pertaining to abatement of nuisances and payment of the costs thereof.
- 6.04 The following requirements shall apply to all residential properties not designated and maintained as a “commercial pickup” and therefore subject to the Millcreek Township residential collection contract:
- 6.04.1 Containers for the temporary storage of municipal waste and placement at curbside for collection by the residential contractor shall have a capacity not exceeding 33 gallons.
- 6.04.2 Garbage and municipal waste containers shall be made of non-absorbent material, be water tight and be provided with handles and closely fitting covers made of non-absorbent material. The owner or occupant of the property generating such municipal waste shall be responsible to keep such containers water tight at all times.
- 6.04.3 Regular refuse or municipal waste bags shall be of sturdy plastic with a minimum thickness of 2 mills and having a maximum capacity of 33 gallons.
- 6.04.4 Containers for the temporary storage of recyclable glass, plastics and metal cans shall be as specified and provided by the Township.
- 6.04.5 Recyclable materials separated at the source from municipal waste and leaf waste shall be cleaned of and kept free from all food and other foreign matter.
- 6.04.6 Recyclable materials shall be source-separated and placed for collection in the manner prescribed in Section 7 of this Ordinance.
- 6.04.7 Leaf waste shall be separated from municipal waste and recyclable materials and placed for collection by the residential contractor in tied Township-designated bags placed separately from other materials placed for collection.
- 6.04.8 All municipal waste, recyclable materials and/or leaf waste shall be set out by the owner or occupant of such residential property at curbside on the established and scheduled day for collection thereof by the residential contractor.
- 6.04.9 No municipal waste, recyclable materials and/or leaf waste shall be set out by the owner or occupant of such residential property for any reason or for the purpose of collection more than twenty-four (24) hours prior to the previously established and scheduled time for collection thereof by the contractor.

## **Section 7 - Recycling Program**

- 7.01 The following materials are declared to be recyclable materials to be separated from municipal waste and leaf waste at the source of generation, placed for collection, collected, transported and placed or marketed for recycling and reuse:
- 7.01.1 Clear and colored glass;
  - 7.01.2 Aluminum, steel and bi-metallic cans;
  - 7.01.3 Recyclable plastics;
  - 7.01.4 Newspapers and newsprint;
  - 7.01.5 Magazines;
  - 7.01.6 Corrugated cardboard;
  - 7.01.7 Mixed paper; and
  - 7.01.8 Mixed cardboard.
- 7.02 All persons shall be obligated to separate or be responsible for the separation from municipal waste and leaf waste generated at all properties located in Millcreek Township those materials now or hereafter designated by the Millcreek Township Board of Supervisors as recyclable materials, and to place the same for collection, recycling and marketing for reuse as specified in this Ordinance.
- 7.03 Prior to storage of recyclable materials for collection, the contents thereof shall be removed from any containers made of recyclable materials and the containers rinsed clean by the owner or occupant of the property generating such materials.
- 7.04 Where required under this Ordinance and/or the Township contract for residential collection services or, as to commercial pickups, by the owner of and/or hauling contractor for such property, recyclable materials shall be separated from one another at the source and placed for collection in such separate fashion, and shall not be commingled with different types of materials.
- 7.05 All recyclable materials placed for collection and recycling shall be free of foreign matter which itself is not recyclable material or an inherent part of the recyclable material.
- 7.06 All owners, landlords, occupants, tenants, managers, the agents thereof and responsible parties for properties located in Millcreek Township which are not included within the Township's residential collection contract shall be responsible for contracting with a registered firm or entity for the collection, transportation, recycling and marketing of recyclable materials.
- 7.07 This Ordinance shall not be construed to preclude the owner or occupant of any property from donating or selling his, her, their or its source-separated recyclable materials generated upon or about such property to any profit or nonprofit entity; provided, however, that such person shall deliver said source-separated recyclable materials to a collection point under the direct operation or control of said profit or nonprofit entity.

- 7.08 This Ordinance shall not be construed to impair ownership of separated recyclable materials by the generator unless and until such materials are placed for collection by the residential or commercial pickup hauling contractor.
- 7.09 Owners, occupants, residents and other persons generating recyclable materials within residential properties in Millcreek Township subject to the Township's residential collection contract shall comply with the following requirements:
- 7.09.1 Recyclable clear and colored glass; plastics and aluminum, steel and bi-metallic cans shall be stored and placed for collection in 20- or 28-gallon plastic containers supplied by Millcreek Township or in a like container clearly identified as containing such recyclable materials.
- 7.09.2 Newspapers and newsprint shall be tied, bundled or placed in paper bags separate from all other materials and placed in such manner for collection.
- 7.09.3 Magazines shall be tied, bundled or placed in paper bags separate from all other materials and placed in such manner for collection.
- 7.09.4 Corrugated cardboard shall be flattened, tied and bundled separate from all other materials and placed in such manner for collection.
- 7.09.5 Mixed paper and mixed cardboard shall be placed in Township-designated tied bags separate from all other materials and placed in such manner for collection.
- 7.10 Owners, landlords, managers, occupants, tenants and other persons within properties in Millcreek Township which are designated and/or maintained as a "commercial pickup" shall comply with the following requirements:
- 7.10.1 The owner, landlord, manager and/or agent thereof shall establish a system of source-separation and collection by occupants of the property of recyclable materials designated in this Ordinance and their placement for collection and proper removal, transportation and marketing for recycling by the contracted hauler for the premises. Such source-separation and collection system must include:
- (a) Provision for separation and collection of all designated recyclable materials established in this Ordinance or otherwise by the Board of Supervisors;
  - (b) Provision of suitable containers for collecting and sorting materials;
  - (c) Easily accessible locations for the containers; and
  - (d) Written instructions to all occupants of the premises concerning designation of recyclable materials, their proper separation at the source of generation and the proper use and availability of the collection system.

7.10.2 All owners of properties deemed a commercial pickup and firms or entities collecting and transporting recyclable materials from said properties shall be obligated to submit in timely fashion all reports to Millcreek Township pertaining to recycling matters as are required in this Ordinance.

7.11 For purposes of this Ordinance, the Township's residential recycling program shall include not only recycling of recyclable materials generated upon residential dwellings served by the contractor retained by Millcreek Township, but also those generated upon all residential properties of any type or nature. Owners of and firms or entities serving all residential properties shall submit to the Township all reports and records required as to residential recycling under this Ordinance or other applicable law.

## **Section 8 - Separation and Collection at Source of Leaf Waste**

- 8.01 All owners, occupants, landlords, tenants, managers and agents of properties located in Millcreek Township shall separate from municipal waste and recyclable materials leaf waste generated at or upon the said properties for purposes of a separate collection and composting thereof.
- 8.02 Owners, occupants, residents and other persons generating leaf waste within residential properties in Millcreek Township subject to the Township's residential collection contract shall comply with the following requirements:
- 8.02.1 All leaf waste shall be accumulated and stored prior to placement for collection by the residential contractor in tied Township-designated bags and shall be free of all other materials.
- 8.02.2 Such leaf waste in tied Township-designated bags shall be placed at curbside for collection by the residential contractor not more than twenty-four (24) hours prior to the scheduled time for collection thereof.
- 8.02.3 Owners, landlords and managers of properties designated and/or maintained as a commercial pickup shall be responsible to contract with a registered hauler for collection, transportation and proper composting of leaf waste generated upon each such property, and for establishing procedures for the proper source-separation, temporary storage and placement of leaf waste by tenants and all other occupants of the premises for collection by the firm or entity retained to provide such service. Such source-separation and collection system must include the following:
- (a) Assumption by the owner, landlord and/or manager of responsibility for collection, storage and proper disposition for composting of leaf waste generated upon the property if such leaf waste is accumulated and collected within the owner's or landlord's obligations; or
  - (b) Written instructions to tenants and other occupants of the premises should they be obligated to accumulate and dispose of leaf waste, which instructions shall at a minimum set forth the requirements for source-separation and collection of leaf waste and identify easily accessible locations for storage and/or placement of such materials and the dates or times of their scheduled collection.
  - (c) Bags or other containers utilized for storage and collection of leaf waste shall be as established by the owner or other responsible party and the retained hauling contractor, and shall be detailed within instructions given to occupants and/or tenants of the premises.
  - (d) Production and retention by the owner and/or retained registered hauler of all records required by this Ordinance as to collection and composting.

## **Section 9 - Registration Required for Collection**

- 9.01 It shall be unlawful for any person, firm or corporation to engage in the gathering, collecting and disposal or disposition of municipal waste, recyclable materials and/or leaf waste in the Township of Millcreek without first registering with the Township and obtaining a certificate of registration.
- 9.02 All persons, firms or corporations desiring such registration shall immediately submit to the Township a written application for registration upon such form as the Board of Supervisors by Resolution shall prescribe.
- 9.02.1 Such application shall set forth (a) the intention of the applicant to collect, transport and dispose of said municipal waste, recyclable materials and/or leaf waste in accordance with the requirements of this Ordinance and other applicable law; (b) identify the equipment and property of the applicant or others to be used; (c) identify the facilities to which municipal waste, recyclable materials and leaf waste shall be directed; (d) detail the nature and extent of services and (e) provide such other information as the Township shall require.
- 9.02.2 If the applicant desires to collect and transport municipal waste and/or residual waste, the applicant shall provide to Millcreek Township a copy of the license issued by PaDEP to applicant as a licensed transporter.
- 9.02.2 If the applicant desires to collect and transport recyclable materials and/or leaf waste, the applicant shall provide to Millcreek Township the identity of all properties and their owners to be served by applicant, and shall be obligated to supplement such information as a condition of registration.
- 9.02.3 All applicants for registration, as a condition of registration, shall warrant that they shall in their provision of services comply with all obligations imposed under this Ordinance and other applicable law.
- 9.02.4 The Board of Supervisors or its designee, upon receipt of an application in full conformity with this Section, shall grant a certificate of registration for a calendar year or such portion of the calendar year as may then be remaining. All registrations issued shall expire on December 31 of the year of issuance.
- 9.03 Millcreek Township shall, by Resolution adopted by the Board of Supervisors from time to time, adopt registration forms to be used by the Township and issued to registrants.
- 9.04 It shall be unlawful for any person, firm or corporation to misrepresent upon an application for registration submitted to the Township any matter or information required upon such application.
- 9.05 All registered hauling firms shall be obligated to submit to the Township those reports required under Section 14 of this Ordinance.

## **Section 10 - General Standards for Collection, Transportation and Disposition**

- 10.01 All persons, firms or corporations collecting municipal waste, recyclable materials and/or leaf waste in Millcreek Township and transporting the same upon the streets of the Township shall collect and transport such materials only in conveyances and receptacles tightly closed on the bottom and sides, so as to prevent such materials from spilling, dropping or falling to the streets, alleys or highways.
- 10.02 All vehicles and conveyances transporting municipal waste, recyclable materials and/or leaf waste shall be so operated and covered as to prevent offensive odors from escaping therefrom and to prevent said materials from being blown or spilled upon any street, walk, alley or property of the Township.
- 10.03 Every vehicle or conveyance shall have plainly printed thereon the name of the registrant, the number of the Township registration issued therefor and shall be kept in a sanitary condition at all times.
- 10.04 All municipal waste, recyclable materials and/or leaf waste shall be collected from properties in Millcreek Township only between the hours of 6:00 a.m. and 8:00 p.m.
- 10.05 Municipal waste and recyclable materials generated and placed by owners and occupants for collection from residential premises subject to the Township's residential contract shall be collected simultaneously by the residential contractor once per each calendar week.
- 10.06 Municipal waste and recyclable materials generated upon and collected at properties in Millcreek Township designated a "commercial pickup" and not subject to the residential contract shall be collected from each such property at least three (3) times per week from May 1 through October 31 of each year and at least two (2) times per week from November 1 through April 30 of each year.
- 10.07 Leaf waste generated upon and placed for collection at residential properties in Millcreek Township subject to the Township's residential collection contract shall be placed by owners and occupants for collection and collected and transported to a licensed composting facility by the residential contractor on a weekly basis during a six (6)-week period in the spring and fall of each calendar year as shall be determined by the Board of Supervisors with a recommendation of the residential contractor. Residents shall be given due notice of the six-week leaf waste collection period, and owners and occupants of residences served under the Township's residential contract shall during said six-week period set their leaf waste at curbside on the day established in each week for collection of municipal waste and recyclable materials.
- 10.08 Leaf waste generated upon properties in Millcreek Township designated and maintained as a commercial pickup shall be collected by the firm or entity retained by the owner or responsible party for said property in accordance with the schedule established by the owner and hauler, such schedule to assure full and proper collection and disposal at a licensed composting facility of all such leaf waste.

- 10.09 All materials, source-separated recyclable materials and leaf waste shall be disposed of by the residential contractor, any registrant or any other collector in such manner as not to endanger or interfere with the health, safety and comfort of any of the inhabitants of Millcreek Township and in compliance with all Federal, State and local laws, ordinances, regulations and rules.
- 10.10 The residential contractor retained by Millcreek Township and all registered hauling entities or firms for collection, transportation and proper disposition of municipal waste, recyclable materials and/or leaf waste shall be required at such person's, firm's or corporation's expense to furnish, maintain and operate all vehicles, machinery and equipment necessary for the proper performance of the Township's residential contract and all contracts for services to properties deemed a commercial pickup, except that such person, firm or corporation shall not be required to furnish receptacles or containers, receptacles or containers to be provided by owners and occupants of properties served by the residential contract or by owners, landlords, managers or their agents of commercial pickup properties.
- 10.11 No municipal waste, source-separated recyclable materials and/or leaf waste shall be collected from residential properties in Millcreek Township having four or fewer units within the same dwelling, nor transported over the streets and thoroughfares of the Township by any person(s) other than the residential contractor retained by the Township for provision of such residential services, subject only to the following exceptions:
- 10.11.1 This subsection shall not prohibit transportation of such materials collected from properties in other municipalities.
- 10.11.2 This subsection shall not prohibit collection and transportation of such materials from properties in Millcreek Township not included within the residential collection contract (i.e., "commercial pickups") if collected and transported by a duly registered person, firm or corporation under contract or agreement to provide such services.
- 10.12 The ultimate disposal facility or facilities utilized for the disposal of municipal waste generated and collected from all properties located in Millcreek Township must be included in the Erie County Act 101 Municipal Solid Waste Plan and must have a Reservation of Waste Disposal Capacity Agreement with Erie County during the effective term of Millcreek Township's contract with the residential contractor and the registration term of any registrant.
- 10.13. All recyclable materials collected from properties located in Millcreek Township shall be transported by the residential contractor or registrant and directed only to a materials recycling facility for processing, marketing and reuse as mandated in the Act and this Ordinance. Such facility must possess and maintain such license(s) as are required under Federal, State and/or local laws and regulations.

- 10.14 As the Act requires that Millcreek Township retain responsibility for its recycling program, the residential contractor and all applicants for registration shall, upon the contractor's bid and all applicants' applications for registration, identify the facilities to be used for disposal or disposition of municipal waste, recyclable materials and leaf waste.
- 10.14.1 Millcreek Township shall be a party in interest as to all contracts between the residential contractor or registrants and facilities utilized for disposition of municipal waste, recyclable materials and leaf waste, and shall be entitled to written notice in the event of termination of such contracts and to reports of tonnages and types of materials disposed by the contractor and/or registrants with each such facility.
- 10.14.2 In the event the residential contractor or a registrant should during the term of the contract or registration enter into contracts with facilities other than those designated in the contractor's bid or registrants' applications for registration, the contractor or registrant shall assure that Millcreek Township is a party in interest as to such new contract(s) and shall further, within ten (10) days after entering into such new contract(s), notify Millcreek Township in writing of the name, mailing address and telephone number of the new facility and the substance of the new contract's provisions.
- 10.14.3 As the residential contractor and all registrants are obligated to assure the proper disposition and marketing for reuse of recyclable items, mere disposition of such items at a third party's facility shall not, alone, satisfy such contractor's or registrants' duties, the contractor and registrants remaining obligated to assure the property processing and marketing of such materials by the facility at which said materials have been disposed.
- 10.15 Once municipal waste, recyclable materials and/or leaf waste are placed at a property in Millcreek Township for collection, they shall become the property of the collector and shall not be taken or removed by third parties. It shall be a violation of this Ordinance, subject to penalties prescribed herein, for any person other than the residential contractor or registered hauling contractor, as applicable, to remove municipal waste, recyclable materials and/or leaf waste which has been placed as designated for collection.

## **Section 11 - Designation of Exclusive Residential Contractor**

- 11.01 The Board of Supervisors shall designate one entity which shall be responsible for the collection, transportation, disposal, recycling and/or composting of all municipal waste, recyclable materials and leaf waste resulting from or generated by all single-family residential units located in Millcreek Township, exclusive of those meeting the definition of a “commercial pickup” under this Ordinance, as required by State and local laws and regulations.
- 11.02 The Board of Supervisors shall, through appropriate advertisement and solicitation of bids, award to a person or entity (“residential contractor”) who qualifies as the lowest financially responsible bidder meeting all specifications and demonstrating its capability of performing the contract a contract for a term not to exceed five (5) years to collect, transport and haul municipal waste, recyclable materials and leaf waste generated upon all such residential properties and dispose municipal waste, market recyclable materials for recycling and reuse and deposit leaf waste for composting at a licensed composting facility, for which services the contractor may bill and collect a fee from residential customers as authorized in Section 12.
- 11.03 The residential contractor shall provide a weekly pick-up or collection of municipal waste and recyclable materials from all residential units in Millcreek Township exclusive of commercial pickups, and shall notify each head of household of the day of the week for the scheduled collection of municipal waste and recyclable materials. This collection shall at the election of the resident be either:
- 11.03.1 An unlimited collection as to volume or number of containers of municipal waste and recyclable materials; or
- 11.03.2 A per-bag collection of municipal waste with unlimited collection as to volume of recyclable materials.
- 11.04 The collection of recyclable materials shall be separate from collection of municipal waste, but both shall be collected at the same time and on the same day of each week for each residential household.
- 11.04.1 It shall be unlawful for the residential contractor to commingle municipal waste and recyclable materials; and/or to dispose of recyclable materials as municipal waste or leaf waste; and/or to fail to market collected recyclable materials for recycling.
- 11.04.2 This subsection shall not preclude the residential contractor from utilizing combination, one-pass vehicles for collection of municipal waste and recyclable materials so long as each is collected and maintained for transportation and disposition in separate compartments without commingling.

- 11.05 While designated recyclable materials may be commingled for collection, it shall be the responsibility of the residential contractor to separate each of the recyclable materials prior to their ultimate disposition and marketing for reuse.
- 11.06 Leaf waste shall be collected weekly from each residential household customer, but shall be limited to a six (6)-week period in the spring and/or autumn of each calendar year of the residential contract. The precise six-week period for leaf waste collection in any given year shall be as determined by the Board of Supervisors after discussion with the residential contractor.
- 11.06.1 The all-inclusive and per-bag service options shall each include unlimited leaf waste collection service during such designated six-week period.
- 11.06.2 Residents shall be given due notice by the Township and the residential contractor of the six-week leaf waste collection period, and residential customers shall during said designated periods set out their leaf waste generated upon such properties at curbside in tied Township-designated bags for collection.
- 11.06.3 Leaf waste shall be collected by the residential contractor from each customer's property on the same day as the customer's scheduled collection of municipal waste and recyclable materials, but shall be collected separately from municipal waste and recyclable materials.
- 11.06.4 It shall be unlawful for the residential contractor to commingle leaf waste with municipal waste and/or recyclable materials in the collection, transportation or disposition of materials.
- 11.06.5 All leaf waste collected by the residential contractor shall be directed for disposition only to a licensed composting facility.
- 11.06.6 The residential contractor shall be solely responsible for the proper collection, transportation and disposition for composting of leaf waste for the life of its contract with Millcreek Township, and shall provide for composting itself or at a licensed composting facility in conformity with applicable State and local law and regulations.
- 11.07 It shall be unlawful and constitute a violation of this Ordinance for any person or entity other than the residential contractor to collect, pick up, transport or dispose of municipal waste, recyclable materials and/or leaf waste generated at or upon residential properties located in Millcreek Township, excluding only those defined herein and maintained as a "commercial pickup."

- 11.08 Every resident, owner, occupant or responsible party for a residential dwelling not deemed a commercial pickup shall have their municipal waste, recyclable materials and leaf waste collected, removed, transported and disposed of only by the residential contractor under contract with Millcreek Township, and shall pay to the residential contractor such fee as is established under such contract for the service method elected by the resident.
- 11.09 The residential contractor shall pay to Millcreek Township on an annual or quarter annual basis such contribution toward the Township's expense incurred in providing administrative services for municipal waste disposal, recycling programs and leaf composting programs as shall be fixed in the specifications and contract approved by the Board of Supervisors.
- 11.10. The residential contractor shall at its expense provide in quarterly billings to residential customers and/or through publications in newspapers of general circulation in Millcreek Township as designated by the Board of Supervisors in the specifications and contract notices to residents concerning scheduled leaf waste collection periods and educational information on recyclable materials and their proper recycling.
- 11.11 It shall be a violation of this Ordinance and unlawful, subject to fines and penalties prescribed in this Ordinance, for any person to place at his or her residence's curbside for collection by the residential contractor municipal waste and/or leaf waste not generated upon such property in ordinary residential use thereof.
- 11.11.1 Municipal waste and/or leaf waste generated upon another property shall not be deemed included within the all-inclusive residential service intended under this Ordinance and the contract awarded by the Board of Supervisors.
- 11.11.2 Construction materials and other municipal waste and/or leaf waste generated by or arising from a person's business enterprise shall be disposed of or composted, as applicable, by the person generating the same in accordance with the requirements of this Ordinance applicable to persons and properties deemed a commercial pickup.
- 11.12 Construction materials in substantial quantity generated at or upon a residential property otherwise subject to the residential contract through construction or renovation of the improvement(s) on the property shall be disposed of by the construction contractor, owner or occupant through separate arrangement or contract with a registered hauling contractor, at the expense of the contractor, owner or occupant, and shall not be deemed within the all-inclusive residential service contract. This subsection shall not be deemed to exclude the following from all-inclusive residential service collection:
- 11.12.1 Wood and related products generated in ordinary residential use, so long as nails and protruding objects are removed or rendered safe for collection;

- 11.12.2 Replaced guttering and fenceboards and the like, so long as they are rendered safe for collection, not longer than 6' and, in any substantial quantities, tied or bundled;
- 11.12.3 Other items excluded from the definition in Section 303.7 generated upon the residential property in the ordinary course of its use.
- 11.13 Millcreek Township and the residential contractor shall cooperate in disseminating to the public information regarding the contract, services, service options, obligations of residents and the contractor and definition and proper preparation of recyclable materials to encourage the effective reuse of such resources.
- 11.14 The residential contractor shall not be obligated to register with the Township by virtue of the contract, but shall obtain such registration(s) for other collection services provided by it to properties deemed a commercial pickup.
- 11.15 The residential contractor shall be subject to the following duties and obligations throughout the term of any contract with the Township:
  - 11.15.1 The contractor shall at all times follow, comply with and abide by the then applicable contract(s), specifications and bid blank for collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste.
  - 11.15.2 The contractor shall at all times follow, comply with and abide by Federal, State and local laws, ordinances, rules, regulations and resolutions, including but not limited to the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act, the Erie County Solid Waste Plan, the Waste Transportation Safety Act and this Ordinance.
  - 11.15.3 The contractor shall submit to Millcreek Township in full and timely fashion and in the manner or format specified in the contract all reports, notices and documents required under applicable law, this Ordinance and/or said contract, and shall retain all records as required under said contract.
  - 11.15.4 The contractor shall be required at its or his own cost and expense to furnish, maintain, operate or have access to a municipal waste disposal facility of sufficient size and capacity to dispose of the municipal waste collections made by the contractor under the terms of the residential contract through the term of such contract. Lack of capacity at a municipal waste disposal facility shall not excuse the contractor's performance under the contract.

- 11.15.5 The contractor throughout the term of the contract shall be required at its or his own cost and expense to furnish, maintain, operate or have access to proper and licensed facilities for the separation and marketing for reuse of recyclable materials and composting of leaf waste collected by the contractor under the terms of the residential contract. Lack of capacity at any such facility shall not excuse the contractor's performance under the contract.
- 11.15.6 Labor disputes and/or work stoppages at or affecting the residential contractor and/or facilities utilized for disposal of municipal waste, marketing of recyclable materials and/or composting of leaf waste shall not excuse the contractor's performance under the residential contract.

## **Section 12 - Residential Service Methods and Fees for Collection**

- 12.01 Every resident owning, occupying or using a residential dwelling in Millcreek Township, excluding only those defined and maintained as a commercial pickup, may contract only with the Township's designated residential contractor for the collection, removal, hauling, transportation and proper disposition of municipal waste, recyclable materials and leaf waste generated upon or within the said dwelling. Every resident contracting for service with the residential contractor shall be obligated to pay to such contractor the fee(s) assessed for the service option elected by such resident.
- 12.02 The residential contractor shall offer all persons and properties subject to residential collection under the contract the two alternative methods of service set forth in Section 11.03 of this Ordinance, each method to include unlimited collection, transportation and proper disposition of recyclable materials and leaf waste.
- 12.02.1 Residents electing the per-bag service method shall be authorized to place municipal waste for collection by the residential contractor only in those bags authorized by the contractor and purchased from the contractor or Millcreek Township. Such bags shall have a minimum capacity of 30 gallons and shall be packaged in minimum quantities of five (5) bags per package.
- 12.02.2 The fee per household for all-inclusive service shall be assessed and paid on a quarter-annual basis, and it shall be the responsibility of each resident or responsible party occupying such household to pay such fee to the residential contractor.
- 12.02.3 The amounts of the all-inclusive and per-bag service methods shall be established as a result of the Township's solicitation of bids and contract award for residential service.
- 12.03 The residential contractor shall provide to residents contracting with it for all-inclusive or per-bag service who are eligible for and possess a PACE card a ten percent (10%) senior citizen discount.
- 12.03.1 Any resident requesting such discount shall be obligated to supply his or her PACE card and another form of identification in order to be eligible for the discount.
- 12.03.2 Any resident who, after receiving benefit of the senior citizen discount, should become ineligible for a PACE card shall from the date of such ineligibility no longer be eligible for the senior citizen discount and, within ten (10) days after receiving notice of PACE ineligibility, shall notify the residential contractor.

- 12.03.3 No person shall attempt to obtain a senior citizen discount through use of a PACE card not belonging to that person.
- 12.03.4 The senior citizen discount shall apply only to persons who own or lease the serviced property such as to be the responsible party. No person not the owner or lessee of the serviced property or the spouse of such owner or lessee shall apply for a senior citizen discount, nor shall any responsible party for a property seek to obtain through another person's eligibility the discount to which the responsible party is not entitled.
- 12.04 For any period in excess of thirty (30) continuous days during which a resident or responsible party has paid or is obligated to pay the fixed quarterly fee for unlimited disposal services but his or her household will not generate municipal waste, recyclable materials and leaf waste during such period due to the residence's not being occupied on account of (1) relocation to a new residence, (2) extended vacation, (3) lengthy hospitalization or convalescence or (4) other reason, such responsible party shall be entitled to a pro-rata refund or credit from the residential contractor for the period of non-occupancy so long as the responsible party notifies the contractor of such non-occupancy not later than seven (7) days after the period of non-occupancy begins. If such notice is not given to the residential contractor within seven (7) days after commencement of non-occupancy, the credit shall not be due earlier than seven (7) days prior to the contractor's receipt of notice.
- 12.05 All residents contracting with the residential contractor for provision of services shall, upon first contracting with the contractor, elect the method of service desired. All residents shall be obligated to retain the service method elected until the next following contract anniversary date. Residents shall be entitled to elect a different service method only upon the commencement of service for a property and on each anniversary date during the contract term. No resident shall be allowed to avoid these requirements through voluntary termination and later reinstatement or otherwise, unless the contractor should agree to the contrary.
- 12.06 The residential contractor shall be solely responsible for payment of all fees and charges assessed or incurred in performing the contract, including but not limited to collection, transportation, proper disposal of municipal waste, disposition and marketing of recyclable materials and composting of leaf waste, and all such costs shall be included in any price bid for a contract of residential collection service.
- 12.07 Special Services and Fees
- 12.07.1 The residential contractor shall provide, for a special assessment fee to be paid by residential collection customers requesting such service, collection, transportation and proper disposal of appliances containing freon which cannot lawfully be disposed of in landfills under present laws and regulations.

- 12.07.2 Contractor shall collect such appliances from residential customers requesting the service and shall transport such appliances to an authorized recycling center for removal of freon and proper recycling. Specifications issued pursuant to this Ordinance and the residential contract awarded shall require that this special service be included in any contract at the fee established in the contractor's bid.
- 12.07.3 The residential contractor or any other registered hauler shall be entitled to contract with owners of or responsible parties for residential dwellings included within the Township's residential contract for collection, transportation and disposal of garbage, household rubbish, construction materials excluded from residential collection under this Ordinance and other municipal waste generated upon such property in the course of its construction or substantial renovation, at such fees as the contractor or registrant and the responsible party shall agree.
- 12.08 The provisions of Sections 11.12 and 12.07 of this Ordinance shall not exclude from the all-inclusive and unlimited residential service method materials constituting municipal waste and/or construction materials which are generated upon or within a residential dwelling as a consequence of water damage, sewer backups created by weather or flood events, where the Board of Supervisors by Resolution shall have authorized such inclusion and insurance coverage extending to payment of benefits for such service does not exist. Where the owner or responsible party has insurance affording such benefits, such owner or responsible party shall contract with the residential contractor or other registered hauling contractor for service in collection and disposal of such materials.
- 12.09 It shall be the responsibility of the residential contractor to bill and collect from each household contracting for its services amounts due for services rendered by the contractor in performance of the contract, subject further to the following:
- 12.09.1 In the event the residential contractor is not paid the quarterly fee per household assessed for unlimited collection service or is not paid sums due by residents electing the per-bag service method, the contractor may proceed to collect such sums in a civil action against the resident, householder, customer or other responsible party for such dwelling.
- 12.09.2 In no event shall Millcreek Township be responsible for payment of any sum due with regard to services rendered by contractor under the contract.

## 12.10 Miscellaneous Provisions

- 12.10.1 Should a residential customer place recyclable materials for collection in such manner that they are not cleaned and/or source-separated from municipal waste or other materials as required by this Ordinance and, as presented, are contaminated, the contractor may decline to collect the same if the contractor gives to the customer notice of the deficiency and reasons.
- 12.10.2 Residential customers shall cut, bend or otherwise reduce to a length not exceeding six feet (6') fence boards, guttering, Christmas trees, shrubbery, limbs, branches and other materials presented for collection by the contractor as municipal waste.
- 12.10.3 The unlimited collection service method is not intended to encompass collection of large appliances and other items in a quantity not reasonably generated in the incidental and normal use of a residential premises. Collection of large items from a premises presented in greater than the volume generated by a residential use may at the contractor's election be subject to a special service fee not exceeding that bid and accepted by the Township in the contract award; provided, that such fee shall be assessed only after prior notice to the customer.
- 12.10.4 Where the owner, occupant, lessee or other responsible party of a residential premises included in the residential contract also conducts a business enterprise from the dwelling which generates municipal waste presented for collection, the residential contractor may assess upon such customer an additional quarterly service fee not exceeding seventy-five percent (75%) of the quarterly contract fee for unlimited collection service.
- 12.10.5 Where this Ordinance specifies a particular type of bag or container for placement of recyclable materials and/or leaf waste, an alternative bag or container prescribed or authorized by the residential contractor or hauler shall be permitted, so long as the alternative complies with the objectives and requirements of this Ordinance.

**Section 13 - Considerations in Contract Awards**

- 13.01 In considering bids received in response to its specifications and solicitation of bids for residential collection service issued pursuant to this Ordinance, the Board of Supervisors shall:
  - 13.01.1 Determine whether each bidder is financially responsible;
  - 13.01.2 Determine whether each bidder is capable of performing all of the duties and obligations imposed under the proposed contract;
  - 13.01.3 If it has solicited bids for alternative terms or provisions, determine those terms and provisions to be in the best interests of the Township and residential customers;
  - 13.01.4 Look to the fixed quarterly fee bid for the unlimited collection, transportation and disposal of municipal waste, recyclable materials and leaf waste service method, and not to the per-bag service method or other service options, as establishing the bid price for purposes of evaluating the amount or price of bids received.
- 13.02 The Board of Supervisors shall have authority to prepare such specifications and consider such additional factors as it deems advisable for the health, safety and welfare of the Township and residential customers.

## **Section 14 - Required Reports and Notices**

- 14.01 All owners, landlords, managers or responsible parties of properties in Millcreek Township which are defined as a commercial pickup must give to Millcreek Township such notices regarding identity of retained hauling contractors as are required in Section 4.01 of this Ordinance.
- 14.02 All persons, firms or entities licensed by PaDEP as waste transporters, contracting with or registered by Millcreek Township to collect, transport, dispose, market for recycling and/or compost municipal waste, recyclable materials and/or leaf waste generated by owners or occupants of properties located in the Township shall be required to keep and maintain records and to submit to Millcreek Township as it may require all customer lists and reports so as to assure compliance with Federal, State and local laws, rules or regulations, and to enable Millcreek Township to comply with its statutory obligations and make full and proper application for recycling and other grants available to it. Reports required by the Township shall serve as a means to apprise the Township of the status of disposal, recycling and composting activities and expenditures. Such reports shall include at a minimum:
- 14.02.1 certified weight receipts itemizing tonnages of municipal waste disposed of in solid waste facilities and tipping fees paid therefor;
  - 14.02.2 certified weight receipts itemizing tonnages of all recyclable materials collected, by particular recyclable material;
  - 14.02.3 certified weight receipts itemizing tonnages of all recyclable materials sold or marketed for reuse, by particular recyclable material, and the fees received or paid therefor;
  - 14.02.4 identity (name, mailing address and telephone number) of all persons or entities to whom recyclable materials have been sold, by material;
  - 14.02.5 material market prices or fees paid, by recyclable material;
  - 14.02.6 certified weight receipts itemizing tonnages of all leaf waste collected and delivered for composting during that period;
  - 14.02.7 the identity of each solid waste disposal facility, recycling facility and/or leaf composting facility utilized, with tonnages, certified weight receipts and price information applicable to each; and
  - 14.02.8 a listing of all properties serviced by such contractor or registrant during the period for which the report pertains, the nature of services provided to each and the identity of property owners.

- 14.03 All reports shall set forth in detail the tonnages of recyclable materials and/or leaf waste collected from mobile home parks, apartments, condominiums and other residential properties and the tonnages of recyclable materials marketed and leaf waste composted from such residential collections.
- 14.04 Registrants shall maintain such records as may be required to identify and distinguish such residential properties, accounts and collections from other, nonresidential properties, accounts and collections.
- 14.05 Upon request by Millcreek Township, registrants shall certify that information set forth in Section 14.03 of this Ordinance as to all residential use properties serviced by such registrant during the reporting period.
- 14.06 Each report and customer list shall be accompanied by a sworn or verified statement of the contractor or registrant, confirming that such contractor or registrant has during the period to which the report pertains assured that:
- 14.06.1 All municipal waste has been disposed of in a solid waste facility permitted under the Erie County Solid Waste Management Plan;
  - 14.06.2 All recyclable materials have been separated, marketed for recycling and proper reuse as required by this Ordinance and have not been landfilled, reused in the same form or used for energy recovery; and
  - 14.06.3 All leaf waste collected has been source separated and transported for disposition at a licensed composting facility in accordance with the requirements of this Ordinance.
- 14.07 All records of the contractor or registrant pertinent to performance of collection, transportation and disposition services from properties in Millcreek Township shall be retained by such contractor or registrant for a period of not less than three (3) years after the date of the report for which such records pertain.
- 14.08 Violation by a residential contractor or registrant of Section 14.02 and/or 14.03 of this Ordinance shall constitute a material breach of obligations owed to Millcreek Township under such contract or registration; shall be subject to fines and penalties prescribed in this Ordinance and shall be grounds for revocation or rescission by Millcreek Township of such contract or registration.
- 14.09 Customer lists and other reports required to be submitted to Millcreek Township shall be in writing and, upon request by the Township, also on computer diskette(s) or other acceptable electronic media in a format prescribed by the Township.
- 14.07 Failure or refusal by a registrant to submit to Millcreek Township full and timely reports required in this Ordinance shall be grounds for refusal by the Township of any subsequent year's application for registration and for revocation of any previously issued registration.

**Section 15 - Effective Date and Application of Ordinance, Contract and Registrations**

- 15.01 Ordinance 97-2 as amended and reenacted and the 2002 specifications, bid blank and contract with Waste Management of Pennsylvania-Erie shall continue in effect as to residential collection service shall continue in effect as to until April 1, 2007 or the effective date of the 2007 collection contract, whichever last occurs. This Ordinance shall be effective as to the residential contract(s) awarded by the Board of Supervisors effective on and after April 1, 2007.
- 15.02 All registrations issued by Millcreek Township for calendar years commencing 2006 shall be governed by the provisions of this Ordinance.
- 15.03 This Ordinance shall become effective five (5) days after the date of its enactment.

## **Section 16 - Enforcement Remedies**

- 16.01 Millcreek Township, through its Board of Supervisors, Police Department and code enforcement personnel authorized by the Board of Supervisors to enforce this Ordinance, shall have full authority to investigate alleged violations, issue enforcement notices, impose administrative fines, commence civil actions for enforcement and/or collection of fines for violation of this Ordinance and otherwise enforce and secure compliance with the provisions of this Ordinance.
- 16.02 Administrative and civil enforcement of this Ordinance shall be in accordance with Millcreek Township Ordinances 96-8 and 96-9 as the same may in the future be amended, and in accordance with the procedures established in said ordinances and in Resolutions adopted by the Board of Supervisors.
- 16.03 The Board of Supervisors and code enforcement personnel entrusted with enforcement of this Ordinance shall have authority to issue cease and desist orders, directing persons found to have violated provisions of this Ordinance to cease and remedy the said violations, and shall further have authority to seek equitable and/or injunctive relief to prohibit violations.
- 16.04 Violations of this Ordinance which are declared in this Ordinance or in the Millcreek Township Nuisance Ordinance to constitute nuisances shall be enforced under either ordinance, and the Board of Supervisors shall have authority to abate nuisances and recover the costs thereby incurred from the responsible party.
- 16.05 Each day that a violation of this Ordinance is permitted to exist shall constitute a separate and continuing offense.
- 16.06 Any person, corporation, partnership or other entity who/which violates any provision of this Ordinance shall be liable to administrative and civil proceedings for enforcement. Upon a determination by the Police Department or other code enforcement personnel that a violation of this Ordinance has occurred, an administrative enforcement notice shall be given to or served upon the violator(s) in accordance with Ordinance 96-8 as may be amended, such notice to impose the administrative fine for such violation as prescribed in Section 17 of this Ordinance. In the event such administrative fine is not paid by the deadline stated in the enforcement notice, code enforcement personnel shall institute a civil action in the District Justice Court having appropriate jurisdiction in accordance with Ordinance 96-8.

**Section 17 - Penalties for Violation**

17.01 Any person, corporation, partnership or other entity violating this Ordinance shall pay the fines prescribed in this Section. The following fines are hereby prescribed for violation of this Ordinance:

	<u>Violation</u>	<u>Prescribed Fine</u>
17.01.1	Failure to register with the Township - Section 9	\$600.00
17.01.2	Failure to submit complete and timely reports to the Township - Section 14	\$600.00
17.01.3	Failure to keep separate and/or to dispose of municipal waste, recyclable materials and/or leaf waste as required - Sections 4-8	\$600.00
17.01.4	Failure by the owner or responsible party to ensure separation, collection and proper disposition of materials as required - Sections 4-8 or to submit required notices and reports to the Township	\$600.00
17.01.5	Misrepresentation on or failure to submit timely supplemental information as to registration - Section 9	\$600.00
17.01.6	Placing municipal waste, recyclable materials or leaf waste generated on one property onto another's property	\$600.00
17.01.7	All other violations	\$300.00

17.02 The prescribed fines shall be assessed for each day a continuing violation occurs or is permitted to occur.

17.03 In the event a violation of this Ordinance is believed to have occurred, the Township shall issue a written enforcement notice, directing that the violator take such action as the Township determines to be necessary to remedy such violation. If such violation is not remedied within the time allowed by such notice, the Township shall commence a civil enforcement action in the office of the District Magisterial Judge having jurisdiction.

17.04 Violation by the residential contractor or a registrant of this Ordinance may, at the discretion of the Board of Supervisors, result in revocation or rescission by the Township of such contract or registration.

- 17.05 The Township shall not issue any registration to an applicant who at the time of such application is in default or violation of the terms of a previously issued registration or of this Ordinance.
- 17.06 All judgments entered in civil actions for enforcement commenced by Millcreek Township shall, in accordance with the Second Class Township Code and Ordinances 96-8 and 96-9 as the same may in the future be amended, include the civil action fine prescribed for the violation in Section 17(A), plus all court costs and plus all attorney's fees incurred by Millcreek Township in such matter. A person found to have violated this Ordinance shall be responsible for payment of all attorney's fees incurred by the Township in all proceedings related to enforcement, including appeals taken by the violator.

**Section 18 - Authority of Board of Supervisors**

- 18.01 The Board of Supervisors shall have authority to adopt, amend, implement and administer such policies, procedures and forms as it deems necessary or appropriate to effectuate this Ordinance.
- 18.02 The Board of Supervisors shall designate such persons to be responsible for administering and enforcing this Ordinance as it deems appropriate.
- 18.03 The Board of Supervisors shall have authority to enter into agreements with such persons or firms as it deems appropriate to effectuate this Ordinance and its purposes.

**Section 19 - Severability**

19.01 If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstance is, for any reason, held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions, which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

**Section 20 - Repealor**

- 20.01 All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed.
- 20.02 Except for the express provision in this Ordinance for its continuing effect as to the 2000 residential contract until the effective date of a successor contract, Ordinance 97-2 as amended is hereby repealed.
- 20.03 Section 11 of Ordinance 96-8 shall be deemed amended with respect to the designated name and number of this Ordinance, the classification of violations as set forth in Section 17.01 hereof and the administrative enforcement procedures established in Section 17.

**BE IT ENACTED** this 15<sup>th</sup> day of August, 2006.

  
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Lawrence G. Curtis, Secretary