

UPPER HANOVER TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2013-02

**AN ORDINANCE AMENDING THE CODE OF UPPER HANOVER TOWNSHIP,
CHAPTER 409, SOLID WASTE, TO ESTABLISH A RECYCLING PROGRAM.**

NOW, THEREFORE, be it ordained and enacted as follows:

SECTION 1. The Code of the Township of Upper Hanover is hereby amended to add the following Articles II and III to Chapter 409, Solid Waste:

ARTICLE II

Recycling

§ 409-15. Title.

This Article shall be known and may be cited as the "Recyclable Collection Ordinance."

§ 409-16. Definitions.

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

ALUMINUM CANS - empty all-aluminum beverage and food containers.

BIMETALLIC CONTAINERS - empty food or beverage containers consisting of steel and aluminum.

COMMERCIAL ESTABLISHMENT - those properties used primarily for commercial or industrial purposes.

CORRUGATED PAPER - structure paper material with inner core shaped in rigid parallel furrows and ridges.

FERROUS CONTAINERS - empty steel or tin-coated steel food or beverage containers.

GLASS CONTAINER - bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products, pyrex, coffee mugs, drinking glasses or light bulbs.

HIGH-GRADE OFFICE PAPER - all white paper, bond paper, copy paper and computer

paper used in commercial, institutional and municipal establishments and in residences.

INSTITUTIONAL ESTABLISHMENT - those facilities that house or serve groups of people such as hospitals, school, day care centers and nursing homes.

LEAF WASTE - leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

MOBILE HOME PARK - a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two (2) or more mobile home lots.

MULTIFAMILY HOUSING PROPERTIES - any properties having six (6) or more dwelling units per structure.

MUNICIPAL ESTABLISHMENTS - public facilities operated by the municipality and other governmental and quasi-governmental authorities.

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

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

PLASTICS - empty PET (soda) plastic bottles and for HDPE (laundry detergent bottles and/or plastic milk containers) plastics, polyvinyl chloride (PVC), low density polyethylene (LDPE), polypropylene (PP), polystyrene (P.S.) and other multilayered plastics including, but not limited to, plastic bottles used as containers for soda, milk and other consumer food products and for certain household cleaning products and personal care products.

PUBLIC AGENCY - any state or local public agency.

RECYCLABLE COLLECTOR - any collector registered pursuant to this Article and other regulations established by resolution adopted hereunder, and pursuant to any intermunicipal agreement subsequently executed by Upper Hanover Township with Montgomery County or any other municipality.

RECYCLABLE MATERIALS - only those materials required to be recycled, pursuant to the provisions of regulations established by resolution adopted hereunder, as revised from time to time.

RESIDENT - any individual, firm, partnership, corporation, association, institution, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other governmental agency or any other legal entity or any group of such persons whatsoever which is recognized by law as the subject of rights and duties, which owns, leases or occupies a property located in Upper Hanover Township used as a residence and containing five or less dwelling units.

SOURCE SEPARATED RECYCLABLES - materials that are separated from municipal waste at the point of origin, being home, residence, apartment, business, industry, etc., for the purpose of recycling.

STORAGE - the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any municipal waste in excess of one year constitutes disposal.

§ 409-17. Recyclable materials.

Recyclable materials for the Township collection program shall consist of such materials as may be designated by resolution adopted, from time to time, by the Board of Supervisors of Upper Hanover Township.

§ 409-18. Separation of recyclable materials.

All persons residing within the Township of Upper Hanover, whether in single-family or multifamily dwellings, townhouses or apartments, shall separate from other municipal waste generated at their dwellings, all recyclable materials. These materials shall be stored until collection thereof by their recyclable collector, at times and dates as set forth by the Township in subsequently promulgated regulations. The Township, from time to time, hereafter by resolution, may designate other items to be recycled.

§ 409-19. Separation of leaf waste.

All persons residing within the Township of Upper Hanover, as aforesaid, shall, at all times, separate from other municipal waste generated at their dwellings, all leaf waste so generated, which shall be collected at such times that the Township, by resolution and notice, indicates that such a leaf waste is to be collected, unless these persons have otherwise provided for the composting of such leaf waste.

§ 409-20. Multifamily housing properties separation and collection.

- A. The owners and/or landlords (and/or agents thereof) of multifamily housing properties and mobile home parks shall comply with the requirements of this Article by establishing a collection system for recyclable materials at each such property. The collection system must include suitable containers for the collecting and sorting of said recyclable materials; easily accessible locations for the containers; and, written instructions to the occupants concerning the use of said collection system. Owners, landlords and their agents shall not be liable for the noncompliance of occupants of their buildings.
- B. The owners and/or landlords (and/or agents thereof) of multifamily rental housing properties and mobile home parks shall establish a system for the collection of recyclable materials and leaf waste and arrange for the removal of such materials to a center for recyclable materials. Leaf waste shall be collected and transported to a composting facility or leaf mulching operation as may be designated by the Township by resolution or notice.

§ 409-21. Commercial, municipal or institutional separation and collection.

All persons owning, leasing, operating, managing and/or otherwise controlling commercial, municipal or institutional establishments or community activities shall separate high grade office paper, aluminum, corrugated paper, leaf waste, collect the same and arrange for the removal of such materials to a center for recyclable materials. Annual reports, in writing, of the number of tons of such material recycled shall be made to the Township by the thirtieth (30th) day of January of the following year.

§ 409-22. Collection and processing.

All recyclable materials and leaf waste shall be collected by a licensed, Township-authorized recyclable collector who is contracted by each resident and/or property owner. The Township, by resolution of the Board of Supervisors, from time to time, will establish a schedule when recyclable materials are to be placed at curb side, or other designated location, for collection. These materials must be set out for collection in accordance with rules and regulations adopted by the Township.

§ 409-23. Exemption.

Persons owning, leasing, operating or managing commercial, institutional or municipal establishments within the boundaries of the Township, who have provided for, or who hereafter provide for, the recycling of materials required to be recycled by the terms of this Article, or by the terms of the Municipal Waste Planning, Recycling and Waste Reduction Act of the Commonwealth, are hereby exempt from the terms of this Article. To be eligible for the foregoing exemption, a commercial, institutional or municipal establishment generating recyclable materials must annually provide written documentation to the Township of the total number of tons recycled by the thirtieth (30th) day of January of each year.

§ 409-24. Ownership of materials.

Recyclable materials, from the time of the placement of same at curb side or other designated collection area in accordance with the terms hereof or of subsequently adopted regulations, shall be and become the property of the respective recyclable collector. Prior thereto, said recyclable materials shall remain the property of the person who generated the same. It shall be a violation of this Article for any person not so authorized by the Township to act as its agent or agents for the collection of the recyclable materials.

§ 409-25. Recyclable collectors.

- A. Registration. Every person desiring to engage in, continuing to engage in or hereafter to begin to engage in the business of collecting, removing, transporting or hauling recyclable materials from any property in Upper Hanover Township shall first register with the Township. Such registration shall be for a period of one (1) year, beginning January 1st of the year in which the registration occurs.
- B. Collection Equipment and Transportation Vehicles. Recyclable collectors may only use vehicles for the collection of recyclable materials in which the recyclable materials are separately collected in accordance with other regulations adopted hereunder. Said vehicles shall, at all times, be in good and proper mechanical condition and in compliance with the minimum safety and sanitary regulations of the Commonwealth of Pennsylvania. All such vehicles shall be specifically designed to prevent leakage of any liquid or fluids. The recyclable materials so collected shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vermin or creation of other nuisances. The collection equipment and transportation vehicles shall be kept in clean and sanitary condition.
- C. Certificate of Insurance. No person shall be entitled to register with the Township as a recyclable collector unless such recyclable collector can show certificates of insurance covering public liability for both bodily injury and property damage, owners' and

contractors' protective insurance and automobile insurance with respect to personal injuries and property damage. Such insurance shall be in amounts that shall be, from time to time, set forth by the Board of Supervisors of Upper Hanover Township by regulations established by resolution adopted hereunder. Each and every policy of insurance herein mentioned which is required pursuant to the terms of this Article shall carry with it an endorsement to the effect that the insurance carrier will convey to Upper Hanover Township, by certified mail, written notice of any modification, alteration or cancellation of any such policy or policies or the terms thereof. The above mentioned written notice shall be mailed to the Township at least thirty (30) days prior to the effective date of any such modification, alteration or cancellation.

- D. Collection Procedures. Recyclable collectors shall collect recyclable materials and leaf waste in accordance with this Article. Recyclable collectors shall deliver leaf waste collected to a Pennsylvania Department of Environmental Protection approved facility. Recyclable collectors shall not collect municipal waste of any resident where it is obvious that recyclable materials have not been separated pursuant to this Article.
- E. Rates Schedule. Each recyclable collector shall, annually, file with the Township a rate schedule showing the rates to be charged to its customer for the collection of recyclable materials. Such rate schedule shall not be changed by the recyclable collector without first giving notice to the Township at least thirty (30) days prior to the effective date of such change. Each recyclable collector shall also file with the Township, annually, or upon change of rates, a map showing the routes a map showing the areas of the Township in which it operates and a timetable setting forth the days of collection.
- F. Registration Fee. At the time of registration, the recyclable collector shall pay to the Township a registration fee in an amount and form as may be adopted, from time to time, by resolution of the Board of Supervisors or Upper Hanover Township.
- G. Reporting. Each recyclable collector shall be responsible for obtaining all weight and volume of quantity data. Such data shall be supplied to the Township on a quarterly basis, and the fourth quarter data shall be supplied to the Township by January 15 for the preceding year, so that the Township may submit reports in accordance with Act 101 and other applicable laws and submit applications for recycling performance grants.
- H. Bins. In single-family areas of the Township one container will be provided by the recyclable collector for the collection of all recyclable materials.

§ 409-26. Hours of collection.

No vehicle intended for the collection of recyclable materials shall operate on any street, roadway, cartway, public thoroughfare or highway while not in its normal course of collection for customers

or constituents within the Township. Such vehicles shall not operate on streets, highways, roadways between 10:00 p.m. and 6:00 a.m. the following day on a weekday or between 9:00 p.m. and 8:00 a.m. the following day on a weekend day or legal holiday.

§409-27. Hours of transportation.

No vehicle transporting, transferring or delivering recyclable materials shall operate on any street, roadway, cartway, public thoroughfare or highway with the intention of delivering the recyclable materials therein to a site or facility situate within the perimeters of the Township except as may be established as follows:

- A. Access to the site or facility shall be limited to normal operating hours of that facility in all circumstances as hereinafter otherwise specifically identified.
- B. No vehicle transporting, transferring or delivering recyclable materials to a facility designed to accept the same shall operate on any of the streets, highways, roadways, between 10:00 p.m. and 6:00 a.m. the following day on a weekday or between 9:00 p.m. and 8:00 a.m. the following day on a weekend day or legal holiday. No vehicle of any type shall operate to transport, transfer or deliver recyclable materials to such a site at any other time, nor shall any vehicle be parked or staged on any street, highway or roadway in anticipation of the opening of such facility except in compliance with this Article.
- C. The hours of operation and other regulations or restrictions regarding of such vehicle and access to the site or facility shall be prominently displayed on a sign at the entrance to any such facility, said sign having the minimum dimensions of three feet (3') in width by four feet (4') in height with lettering thereof to be legible from the nearest road surface thereto or at a distance of fifty feet (50'), whichever distance is greater.

§409-28. Community activities recycling.

All events (i.e. fairs, concerts, sporting events, etc.) conducted in whole or in part within the Township shall provide for the collection of recyclable materials.

Nothing contained herein shall impair or prohibit any recognized civic, fraternal, charitable or benevolent organization, association or society from undertaking or sponsoring voluntary programs or projects involving the collection of recyclables from the public as a fund raiser so long as the collection of such recyclable materials are deposited with a Pennsylvania Department of Environmental Protection approved facility. Any such collection activity can only occur prior to the recyclable material being placed at curbside or similar location for collection by an authorized

collector. Prior to initiating such activity the organization shall obtain authorization from the Township. Nothing herein shall be deemed to prohibit any person from donating or selling any recyclable materials to individuals or organizations unless or until they are placed at curbside or similar location for collection by a recyclable collector.

§ 409-29. Violations.

A. It shall be unlawful for:

1. Any persons, other than those persons authorized, to collect any recyclable material which has been placed at the curb side or similar location for collection.
2. Any person to place, or cause to be placed, any materials other than a recyclable material in recycling containers.
3. Any person to collect any recyclable material in a manner not consistent with this Article or the regulations promulgated hereunder.
4. Any person to hinder, to obstruct, to prevent or to interfere with the Township or any other authorized person in the performance of any duty under this Article.

B. Any person who shall violate the provisions of this Article shall receive an official written notice of noncompliance from the Township for the first and second offenses. Thereafter, all such violations shall be subject to penalties hereunder provided.

§ 409-30. Rules and regulations.

The collection of recyclable materials by recyclable collectors shall be made in compliance with the regulations to be adopted by the Board of Supervisors of Upper Hanover Township to carry out the intent and purpose of this Article. Such rules and regulations shall be approved by resolution of the Board of Supervisors of Upper Hanover Township; and, when so approved, shall have the same force and effect as the provisions of this Article. The said rules and regulations may be amended, modified or replaced by resolution of the Board of Supervisors of Upper Hanover Township.

§ 409-31. Enforcement and remedies.

A. **Enforcement Notice.** If it appears to the Township that a violation of the Article has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section. The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel

and to any other person requested in writing by the owner of record. An enforcement notice shall state at least the following:

1. The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
 2. The location of the violation and, if applicable, the property in violation.
 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Article.
 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 5. That the recipient of the notice has the right to appeal to the Board of Supervisors and/or Zoning Hearing Board in accordance with the ordinances of the Township and statutes of the Commonwealth of Pennsylvania.
 6. That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.
- B. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before the local Magisterial District Justice, pay a judgment of not less than \$25 nor more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Justice. If the defendant neither timely pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Article which shall be found to have been violated shall constitute a separate violation. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action or enforcement pursuant to this Section. Magisterial District Justices shall have initial jurisdiction over proceedings brought under this Section.

§ 409-32. Modifications.

The Township may, from time to time, modify, add to or remove from the standards and regulations herein.

§ 409-33. Supremacy.

To the extent the provisions of this Article are inconsistent with any other Township ordinance, resolution or regulation, the provisions of this Article shall govern.

ARTICLE III

Littering

§409-34. Littering prohibited.

It shall be unlawful to throw, deposit or dump or to maintain any accumulation of solid waste materials in or on any unauthorized property, vacant or occupied, or to litter on or along any road within the Township, except as hereinafter provided. For purposes of this Article, "solid waste" shall mean garbage, refuse and other discarded materials, including but not limited to solid and liquid waste materials resulting from industrial, commercial, agricultural and residential activities.

§409-35. Enforcement and remedies.

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before the local Magisterial District Justice, pay a judgment of not less than \$25 nor more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Justice. If the defendant neither timely pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Article which shall be found to have been violated shall constitute a separate violation. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action or enforcement pursuant to this Section. Magisterial District Justices shall have initial jurisdiction over proceedings brought under this Section.

SECTION 2. The Code of the Township of Upper Hanover is hereby amended to make the following revisions to Chapter 153, Open Burning:

1. §153-4.H is hereby repealed in its entirety.

2. §153-4.L is hereby added, and shall read as follows:

“Notwithstanding any other provision of this Chapter, the burning of leaf and yard waste, and/or any item, substance or material designated as a recyclable material under the Code of the Township of Upper Hanover, Chapter 409, Solid Waste, as amended, is hereby prohibited.

SECTION 3: Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

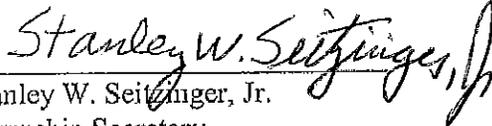
SECTION 4. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause Section or Article thereof had not been included herein.

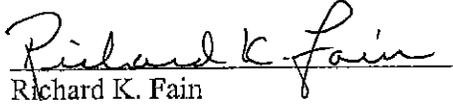
SECTION 5. Effective Date. This ordinance shall become effective in accordance with law.

ORDAINED AND ENACTED as an Ordinance by the Board of Supervisors of Upper Hanover Township this 12th day of March A.D., 2013.

Attest:

UPPER HANOVER TOWNSHIP
BOARD OF SUPERVISORS


Stanley W. Seitzinger, Jr.
Township Secretary


Richard K. Fain
Chairman