

ORDINANCE 2008-27

**AN ORDINANCE TO AMEND, SECTION 10, MANDATORY RECYCLING OF
CHAPTER 12 "HEALTH CODE" OF NEWTON'S REVISED GENERAL
ORDINANCES**

WHEREAS, there is a need to supplement and enhance the regulations previously adopted to include changes and adjustments to the mandatory recycling requirements of the Town of Newton;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex and State of New Jersey, that Chapter 12, entitled "Health Code" of the Revised General Ordinances of the Town of Newton be amended by replacing Section 10 in its entirety with the following verbiage, to read as follows:

12-10 Mandatory Recycling

Subsections:

- 12-10.1 Definitions
- 12-10.2 Source Separation, Exemptions
- 12-10.3 Collection of Recyclable Materials
- 12-10.4 Residential Dwelling Compliance Requirements
- 12-10.5 Non-residential Establishment Compliance Requirements
- 12-10.6 New Developments of Multi-Family Residential Units or Commercial, Institutional, or
- 12-10.7 Industrial Properties
- 12-10.8 Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials
- 12-10.9 Enforcement Violations and Penalties
- 12-10.10 Severability, Effective Date

12-10.1 Definitions

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

Commingled-means a combining of non-putrescible source-separated recyclable materials for the purpose of recycling;

Designated recyclable materials- means those materials designated within the Sussex County District Solid Waste Management Plan to be source separated for the purpose of recycling. These materials include:

(As defined by the Sussex County Solid Waste Management Plan - Residential Generators)

- 01- Aluminum Cans - Food and beverage containers made entirely of aluminum.
- 03- Computer Printout/White Ledger - All-computer paper, all high-grade white paper (including letterhead, typing paper, copier paper, onionskin, tissue and note pad).
- 06- Corrugated - Containers, brown grocery bags, and similar paper items, usually used to transport supplies, equipment, parts or other merchandise.

- 07- Glass Containers - AU glass containers used for packaging food or beverages.
- 10- Leaves and Brush Leaves - brush and other yard trimmings, including grass clippings, from institutions, commercial or industrial sources
- 11- Magazine & Junk Mail magazine stock - white and colored paper and envelopes, telephone directories and books.
- 13- Mixed Office Paper - items listed in computer printout/white ledger category when mixed with envelopes, manila binders and color paper. Material is generated by commercial/institutional sources.
- 14- Newspaper - All paper marketed as newsprint or newspaper and containing at least 70% newsprint or newspaper (American Paper Institute grades #6, #7 and #8-news).
- 15- Plastic containers - Containers such as polyethylene terephthalate (PETE -#1) soda bottles, high-density polyethylene (HDPE -#2) milk, and water or detergent bottles.
- 17- Steel Cans - Rigid containers made exclusively or primarily of steel, tin-plated steel, and composite steel and aluminum cans used to store food, beverages, paint and a variety of other household and consumer products.
- 18- Stumps, Logs and Tree Parts - Unfinished wood from land clearing projects, storm damage or pruning activities.
- 19- Textiles - Textiles larger Than 15" x15" (e.g. clean clothing, drapes, curtains, sheets, towels, cloth, belt, shoes, handbags. and small stuffed animals).
- 20- Tires - Rubber-based scrip automotive and Truck tires.
- 22- Used Motor Oil -A petroleum base or synthetic oil whose use - includes, but is not limited to, lubrication of internal combustion engines, which through use, storage or handling has become unsuitable in its original purpose due to the presence of impurities or loss of original properties.

(As defined by the Sussex County Solid Waste Management Plan - Non Residential Generators, Commercial and Institutional Sectors)

CLASS MATERIAL AND DEFINITION

- 01- Aluminum Cans - Food and beverage containers made entirely of aluminum.
- 02- Antifreeze - An automotive engine coolant consisting of a mixture of ethylene glycol and water or propylene glycol and water.
- 03- Computer Printout/White Ledger - All-computer paper, all high-grade white paper (including letterhead, typing paper, copier paper, onionskin, tissue and note pad).
- 04- Concrete, Asphalt and *Masonry/Paving* Material - Asphalt, concrete, brick, cinder block, "patio blocks", and other masonry and paving materials.
- 05- Consumer Batteries - Any type of button, coin, cylindrical, rectangular or other shaped, enclosed device or sealed container which is utilized as an energy source for commercial, industrial, medical, institutional, or household use. (Does not include lead-acid batteries from vehicles).
- 06- Corrugated - Containers, brown grocery bags, and similar paper items, usually used to transport supplies, equipment, parts or other merchandise.
- 07- Glass Containers - AU glass containers used for packaging food or beverages.
- 08- Heavy Iron - All structural steel or ferrous metal, cast iron components,
- 09- Lead-Acid - Batteries -Batteries from automobiles, trucks, other vehicles and machinery and equipment, which shall be stored in a manner that protects them from the elements to avoid corrosion and leakage.

- 10- Leaves and Brush Leaves - brush and other yard trimmings, including grass clippings, from institutions, commercial or industrial sources
- 11- Magazine & Junk Mail magazine stock - white and colored paper and envelopes, telephone directories and books.
- 12- Mercury Containing Devices - including fluorescent and compact tubes, High Intensity Discharge (HID) and neon lamps, electrical switches, thermostats, thermometers and any batteries containing mercury.
- 13- Mixed Office Paper - items listed in computer printout/white ledger category when mixed with envelopes, manila binders and color paper. Material is generated by commercial/institutional sources.
- 14- Newspaper - All paper marketed as newsprint or newspaper and containing at least 70% newsprint or newspaper (American Paper Institute grades #6, #7 and #8-news).
- 15- Plastic containers - Containers such as polyethylene terephthalate (PETE -#1) soda bottles, high-density polyethylene (HDPE -#2) milk, and water or detergent bottles.
- 16- Scrap Autos - Crushed or shredded automobile or truck bodies, excluding auto shredder residue or "fluff".
- 17- Steel Cans - Rigid containers made exclusively or primarily of steel, tin-plated steel, and composite steel and aluminum cans used to store food, beverages, paint and a variety of other household and consumer products.
- 18- Stumps, Logs and Tree Parts - Unfinished wood from land clearing projects, storm damage or pruning activities.
- 19- Textiles - Textiles larger Than 15" x15" (e.g. clean clothing, drapes, curtains, sheets, towels, cloth, belt, shoes, handbags. and small stuffed animals).
- 20- Tires - Rubber-based scrip automotive and Truck tires.
- 21- Used Consumer Electronics - Any appliance used in a business that includes circuitry. Includes components and subassemblies of the electrode products. Examples include computers & peripherals, printers, copiers, VCRs, televisions, cell phones and fax machines, etc.
- 22- Used Motor Oil -A petroleum base or synthetic oil whose use - includes, but is not limited to, lubrication of internal combustion engines, which through use, storage or handling has become unsuitable in its original purpose due to the presence of impurities or loss of original properties.
- 23- White Goods & Light Iron - All large appliances such as washers, dryers, refrigerators, etc., as well as products made from sheet iron, such as shelving, file cabinets, metal desks, recycled or reconditioned steel drums, and other non-structural ferrous scrap.
- 24 - Wood Scrap -Unfinished lumber from construction or demolition projects including pallets. Unfinished shall mean non-chemically treated (not pressure treated, impregnated with preservatives, insecticides, fungicides, creosote, or other chemicals, and not painted, resin-coated or otherwise surface treated, and not laminated or bonded; and not similarly altered from its natural condition).
- 25 - Non-Ferrous and aluminum Scrap – All non-container aluminum, stainless steel, copper, zinc, brass, and other metals which generally do not rust;

Multifamily dwelling- means any building or structure, or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see NJSA 13:1E-99.13a.) and shall include hotels, motels, or other guest houses serving transient or seasonal guests

as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C.55: 13A-1 et seq.);

Municipal Recycling Coordinator- means the person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder.

Municipal solid waste (MSW) stream- means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of the Town of Newton;

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

Source-separated recyclable materials- means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

Source separation- means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

12-10.2 Source Separation; Exemption from Source Separation Requirements

A. Mandatory source separation: It shall be mandatory for all persons who are owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the municipality of the Town of Newton, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises and shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Town of Newton Department of Public Works.

B. Exemptions: Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this Chapter, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be

recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

12-10.3 Collection of Recyclable Materials

The collection of recyclable material shall be in the manner prescribed as follows:

- A. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after 5:00 PM of the day immediately preceding the day of collection, but no later than 7:00 AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 PM of the day of collection.
- B. All receptacles or dumpsters shall be kept clean and in a safe manner in accordance with the Health Code of the municipality of the Town of Newton.

12-10.4 Residential Dwelling Compliance Requirements

The owner of any property shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every 6 months during their occupancy.

12-10.5 Non-Residential Establishment Compliance Requirements

- A. All commercial and institutional generators of solid waste shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. Every business, institution, or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.

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

12-10.6 New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties (Pursuant to N.J.S.A. 13:1E-99.13a and 99.16c.)

- A. Any application to the planning board of the municipality of the Town of Newton, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:
1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development (Note: A calculation of average amounts of materials generated from similar facilities in the County may be provided to satisfy this requirement) .and
 2. Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.
- B. Prior to the issuance of a Certificate of Occupancy by the Town of Newton, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.
- C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

12-10.7 Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.
- C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

12-10.8 Enforcement

The Code Enforcement Official, the Recycling Coordinator, the Property Maintenance Official, and the Sussex County Department of Health are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

12-10.9 Violations and Penalties

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$250, nor more than \$1000. Each day for which a violation of this Ordinance occurs shall be considered a separate offence or 40 hours of community service, or both, per offense.

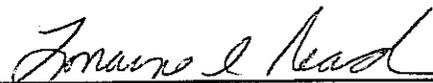
Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program, including purchase of containers for distribution, educational material, and purchase of equipment to continue to operate the recycling center and curbside pick up.

12-10.10 Severability, Effective Date

In the event that it is determined, by a Court of competent jurisdiction, that any provision or section of this Ordinance is unconstitutional, all other sections and provisions shall remain in effect. This Ordinance shall take effect immediately, unless otherwise provided by Resolution of the governing body.

NOTICE

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on December 8, 2008, and said Ordinance will be considered for final passage at a regular meeting of the Town Council of the Town of Newton to be held December 22, 2008 in the Council Chambers, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.



Lorraine A. Read, R.M.C.
Municipal Clerk, Town of Newton