

94-GARBAGE. RUBBISH AND REFUSE

[HISTORY: Adopted by the Board of Commissioners of the Borough of Cape May Point Art. 1, 3-8-79 as Ord. No. 174-79; Art II, 3-10-88 as Ord. No. 261-88; Art. III, 5-6-88 as Ord. No. 264-88. Sections 94-4, 94-11 and 94-15 amended at time of adoption of Code; see Ch. I, General Provisions, Art. 1. Other amendments noted where applicable.]

GENERAL REFERENCES

Littering on beaches — See Ch. 58.
Clean community program — See Ch. 70.

ARTICLE I Solid Waste Code

[Adopted 3-8-79 as Ord. No. 174-79]

§ 94-1. Adoption.

A code regulating the manner in which refuse may be stored, collected and disposed of; declaring and defining certain conditions as nuisances; fixing the responsibilities and duties of persons storing, collecting and/or disposing of refuse and providing for the issuance of permits to collect refuse is hereby established pursuant to the provisions of P.L. 1950, c. 188.¹ A copy of said code is annexed hereto and made a part hereof without the inclusion of the text thereof herein.²

§ 94-2. Title.

The code established and adopted by this Article is described and commonly known as the "Solid Waste Code of New Jersey (1959)."

§ 94-3. Copies on file.

Three (3) copies of the said Solid Waste Code of New Jersey (1959) have been placed on file in the office of the Clerk of the Board of Commissioners upon the introduction of this Article and will remain on file there until action is taken on this Article for use and examination by the public.

§ 94-4. Violations and penalties.³

Any person who violates any provision of or order promulgated under this Article or the code established herein shall, upon conviction thereof, be liable to a penalty of not less than two dollars (\$2.) nor more than five hundred dollars (\$500.) for each violation. Each day a particular violation continues shall constitute a separate offense.

¹ Editor's Note: See N.J.S.A. 26:3-69 et seq.

² Editor's Note: A copy of the Solid Waste Code is on file in the office of the Borough Clerk.

³ Editor's Note: Amended at time of adoption of Code; see Ch. I, General Provisions, Art. 1.

ARTICLE II Recycling
[Adopted 3-10-88 as Ord. No. 261-88]

§ 94-5. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DEBRIS — Stones, dirt, demolition material, broken concrete and other like material, brush, branches, small trees and bushes.

GARBAGE — Putrescible animal, fish, fowl, fruit or vegetable waste incident to and resulting from the use, preparation, cooking and consumption of food.

GLASS — All products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packaging or bottling of various matter and all other materials commonly known as "glass," excluding blue and flat glass commonly known as "window glass," mirrors, milk glass, crystal, china and ceramic material.

LEAVES — Clean leaves, exclusive of such debris as brush, branches, small trees and bushes.

METAL — All products made of metal, including tin cans, bimetal cans, aluminum cans, aluminum foil, aluminum food containers, screen frames and lawn chairs, excluding washers, dryers, refrigerators, stoves, hot-water heaters, and other white goods.

MIXED PAPER — All uncontaminated paper material, such as used newspaper, magazines, advertising circulars, wrapping paper, brown bags, cardboard and cardboard boxes, discarded letters and envelopes.

TRASH — Ashes, plastic material, ceramics, blue and flat glass, non putrescible solid waste, grass clippings, building materials, contaminated paper and other similar materials.

§ 94-6. Mandatory separation and recycling program established.

Commencing April 1, 1988, there is hereby established a program for the mandatory separation of mixed paper, glass and aluminum within the Borough of Cape May Point. Additional recyclable materials can be added to the mandatory separation program by appropriate resolution of the Board of Commissioners of the Borough of Cape May Point

§ 94-7. Manner of separation and placing for removal.

The occupant or owner of any building within the Borough of Cape May Point who shall place for disposal, removal or collection the following named items shall do so in strict conformity with the following regulations:

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- A. Mixed paper shall be stacked in brown grocery bags or secured with string in bundles not to exceed thirty-five (35) pounds. A one-foot stack, tightly bundled, equals approximately thirty-five (35) pounds.
- B. Each owner or occupant is required to supply a metal or hard plastic reusable container for the collection and recycling of aluminum commingled with mixed glass.

§ 94-8. Collection.

The collection, removal and disposal/recycling of mixed paper, glass and aluminum shall be supervised by the Board of Commissioners and the Commissioner of the Department of Public Works, which shall have the power to establish, by appropriate resolution, the time and method and routes of service.

§ 94-9. Receptacle requirements.

All receptacles required herein shall be supplied by the occupant or owner of the premises and placed prior to collection at curbside where they shall be readily accessible to the collector. The occupant or owner shall keep all receptacles clean and in condition for safe handling. Receptacles or other items to be disposed of shall be placed outside after 5:00 p.m. of the day immediately preceding the day of collection. After collection, any empty containers shall be removed from curbside promptly, but no later than 5:00 p.m. of the day of collection.

§ 94-10. Collection by unauthorized persons prohibited.

From the time of placement at the curb by anyone of the categories described herein for collection by the Borough of Cape May Point in accordance with the terms hereof, items shall be and become the property of the Borough of Cape May Point or its authorized agent. It shall be a violation of this Article for any person unauthorized by the Borough of Cape May Point to collect or pick up or cause to be collected or picked up any such items during the twenty-four-hour period commencing at 5:00 p.m. on any day preceding a day designated for collection. Any and each such collection in violation hereof from one (1) or more residences during said twenty-four-hour period shall constitute a separate and distinct offense, punishable as hereinafter provided.

§ 94-11. Violations and penalties.⁴

Any person, firm or corporation that violates or neglects to comply with any provisions of this Article, except for those provisions set forth in § 94-10, or any regulation promulgated pursuant thereto shall, upon conviction thereof, be punishable by a fine not to exceed two hundred fifty dollars (\$250.) and/or up to two (2) weeks' community service work assisting with the municipal recycling program. Any person that violates the provisions set forth in § 94-10 of this Article or any regulation pursuant thereto shall,

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. I, General Provisions, Art. 1

upon conviction thereof, be punishable by a fine not to exceed one thousand dollars (\$1,000.).

§ 94-12. Additional rules and regulations authorized.

The Board of Commissioners of the Borough of Cape May Point may adopt rules and regulations by resolution to implement the provisions of this Article.

ARTICLE III Dumping

[Adopted 56-88 as Ord. No. 264-88]

§ 94-13. Use or maintenance of waste disposal areas restricted.

The use or maintenance of any waste disposal area within the Borough of Cape May Point other than those areas, if any, officially established by the New Jersey Department of Environmental Protection permit or officially designated by the Borough of Cape May Point shall constitute a detriment to the public health and a nuisance.

§ 94-14. Dumping prohibited.

No person, firm or corporation, whether acting as contractor, agent, employee, collector or owners, shall dump, deposit or dispose of any garbage, animal matter, refuse, rubbish debris, salvage or waste material in or upon any lands anywhere within the Borough of Cape May Point other than the designated and permitted areas. Nothing in this section shall be construed to hinder, impede or prevent the ordinary and normal activities of a farm operation.

§ 94-15. Violations and penalties⁵

Any person, firm or corporation who shall violate any provision of this Article shall, upon conviction, be subject to a fine of not less than two hundred fifty dollars (\$250.) nor more than one thousand dollars (\$1,000.) for each and every such violation, plus the cost of cleanup or community service work for a period of not less than ten (10) days, but not to exceed ninety (90) days, or imprisonment for a term not to exceed ninety (90) days or any combination of these penalties. Each day upon which a violation of this Article shall continue to exist shall be deemed a separate offense.

§ 94-16. Reward.

Any person assisting in the conviction of a violator of this Article through the signing of a complaint, the giving of testimony in court or other significant assistance of the enforcement authorities thereof or who testifies in court in an action against an alleged violator of this Article resulting in conviction shall receive a reward of not less than one hundred dollars (\$100.) or more than two hundred fifty dollars (\$250.), to be determined by the appropriate public official or appropriate public body of the Borough of Cape May Point having jurisdiction of the same.

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. I, General Provisions, Art. 1.

ARTICLE IV Containerized Yard Waste

[Adopted 01-06 as Ord. No. 511-06]

§ 94-17. Purpose:

An ordinance to establish requirements for the proper handling of yard waste in the Borough of Cape May Point, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 94-18. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a. **Containerized** – means the placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with storm water.

b. **Person** – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

c. **Street** - means any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

d. **Yard Waste** – means leaves and grass clippings.

§ 94-19. Prohibited Conduct:

The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, in the street. If yard waste that is not containerized is placed in the street, the party responsible for placement of yard waste must remove the yard waste from the street or said party shall be deemed in violation of this ordinance.

§ 94-20. Enforcement:

The provisions of this ordinance shall be enforced by the Cape May City Police Department.

§ 94-21. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed 500.00.

ARTICLE V A Source Separation and Recycling policy for Designated Recyclables

[Added 03/16/07 by Ordinance No. 534-07]

§ 94-22. Definitions

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 Cape May County Solid Waste Management Plan to be source separated for the purpose of recycling by residential, commercial, and institutional sectors. These materials cannot be deposited in the landfill and include:

MATERIALS TO BE SETOUT AT CURBSIDE – Category 1:

- (a) **Paper Products** – Newspaper with inserts, magazines, office paper, junk mail including shredded paper, telephone and paperback books, corrugated cardboard, brown paper grocery bags;
- (b) **Glass, Food and Beverage Containers** – Clear, green and brown food and beverage bottles and jars, excluding however, blue and flat glass commonly known as "window glass";
- (c) **Metal Food and Beverage Containers** – Aluminum, bi-metal and steel food and beverage containers 2½ gallons or less in size, including empty aerosol cans;
- (d) **Plastic Bottles and Jugs** – Plastic containers imprinted with a (PETE) or (HDPE) on the bottom including food, beverage, health, beauty and cleaning products, bottles 2½ gallons or less in size. Automotive fluid containers and other bottles that contained hazardous products are not included; NO motor oil bottles, NO pesticide containers.
- (e) **Christmas Trees** – Free of decorations, tree stands and plastic bags;
- (f) **Leaves** – Comprised mainly of tree and plant leaves and not contaminated with brush or other material; and
- (g) **Grass** - Lawn grass clippings.

MATERIALS TO BE RECYCLED BY THE INDIVIDUAL GENERATOR – Category 2:

- (a) **Brush, Tree Branches and Stumps** – All parts of vegetative growth from trees, and vegetative materials generated during land clearing;
- (b) **Ferrous and Non-Ferrous Scrap** – Metals, such as copper, iron, sheet metal, aluminum, radiators, structural steel, metal pipe and "white goods" including, but not limited to, appliances containing "CFC's" or Freon;
- (c) **Electronic Waste** – shall mean a computer central processing unit and associated hardware including keyboards, modems, printers, scanners and fax machines, cathode ray tubes, cathode ray tube devices, flat panel displays or similar video display devices with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards including, but not limited to, televisions and cell phones. Also includes VCR's, radios and landline telephones;

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- (d) **Motor Oil / Kerosene / # 2 Heating Oil** - Crank-case oil and similar oils, kerosene fuel and #2 home heating oil which are used to fuel heating equipment;
- (e) **Wood Pallets and Crates** - Clean untreated, unpainted pallets and crates only;
- (f) **Batteries** - Lead Acid Batteries - Used SLA (sealed lead acid) batteries generated from motor vehicles, aviation and marine equipment;
- (g) **Propane Tanks** - Empty 20 to 30 lb BBQ type tanks;
- (h) **Contaminated Soil** - If classified as ID27, all fuel contaminated soil, dewatered soil, and stone from septic beds and similar materials that are allowed to be recycled in accordance with the regulations of the New Jersey Department of Environmental Protection;
- (i) **Commercial Cooking Grease** - Grease and oil generated from food preparation by commercial sources only;
- (j) **Asphalt and Concrete** - Asphalt and concrete materials from construction and demolition projects;
- (k) **Auto and Truck Bodies** - All junk automobiles and trucks and parts thereof;
- (l) **Tires** - Worn truck and passenger car tires;
- (m) **Used Oil Filters** - Used filters that are generated from changing crankcase oil in automobiles, trucks and other vehicles;
- (n) **Anti-freeze** - Used antifreeze generated from automobiles, trucks and other vehicles/sources; and
- (o) **Consumer Rechargeable NiCad (Nickel-Cadmium) and Small Sealed Lead Acid Batteries** - Small sealed batteries generated from use of electronic equipment.

MUNICIPAL RECYCLING COORDINATOR - means the person or persons appointed by the municipal governing body and who shall be authorized to enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder. This appointee shall also be responsible to assure that all materials recycled in the municipality are properly reported and recorded;

MUNICIPAL SOLID WASTE (MSW) STREAM - means all solid waste generated at residential, commercial and institutional establishments within the boundaries of the municipality of Cape May Point;

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 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;

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;

WHITE GOODS - means bulk items such as kitchen and clothes appliances.

§ 94-23 Applicability Of Mandatory Source Separation And Recycling Requirements

Mandatory Source Separation: It shall be mandatory for all persons who are owners, lessees, tenants or occupants of residential and non-residential premises, including but not limited to retail, government, and other institutional locations within the municipality of Cape May Point, to separate Designated Recyclable Materials from all solid waste.

- (a) **Category 1** Designated Recyclable Materials shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by Cape May Point.
- (b) When municipal curbside collection is not provided for Designated Recyclable Materials, as is the case for those recyclables included in **Category 2**, it shall be the obligation of the generator to deliver or arrange for the delivery of such materials to the Cape May County Municipal Utilities Authority (CMCMUA) recycling facilities located at the Sanitary Landfill and/or Transfer Station as applicable, or to a private sector market for recycling.

§ 94-24. Collection Of Recyclable Materials

The collection of Source Separated Recyclable Materials shall be in the manner prescribed as follows:

- (a) It is the responsibility of the property owner to provide adequate size and number of containers for the separate placement of recyclables for curbside collection as follows: Paper Products may be commingled in one container or may be placed in brown paper bags, however, plastic bags shall not be used for curbside collection of Paper Products; Glass, Food and Beverage Containers, Metal Food and Beverage Containers, and Plastic Bottles and Jugs may be commingled in one container. All containers and brown paper bags containing Source Separated 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 recycled shall be placed as noted above anytime after 5:00 PM of the day immediately preceding the day of collection, but no later than 6:00 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 maintained in a clean and safe manner.
- (c) The following materials must be Source Separated and recycled through the municipal recycling program in the following manner:
 - 1) Leaves and Grass – curbside pickup as needed in Spring and Fall
 - 2) Christmas Trees– curbside pickup during January. Otherwise, responsibility of generator.
 - 3) Brush, Tree Branches and Tree Stumps – responsibility of generator.

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- 4) White Goods – bulk pickup days in Spring and Fall. Otherwise, responsibility of generator.
 - 5) Ferrous and Non-Ferrous Scrap – responsibility of generator.
- (d) The following materials must be Source Separated and recycled by the generator at authorized CCMUA recycling facilities or any NJDEP approved recycling center:
- 1) Wood Pallets and Crates
 - 2) Propane Tanks
 - 3) Electronics
 - 4) Tires
 - 5) Antifreeze
 - 6) Batteries
 - 7) Used Motor Oil
 - 8) Kerosene / #2 Heating Oil
 - 9) Asphalt and Concrete
 - 10) Auto and Truck
 - 11) Contaminated Soil
 - 12) Cooking Grease
 - 13) Consumer Rechargeable NiCad and Small Sealed Lead Acid Batteries

§ 94-25. Residential Dwelling Compliance Requirements

The owner of each 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 Source Separated Recyclable Materials, except for those Designated Recyclable Materials for which municipal collection service is provided to multifamily units. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The owner or management shall issue notification and collection rules regarding recycling requirements to all new tenants when they arrive and with a reminder a minimum of every 6 months during their occupancy.

§ 94-26. Commercial Establishment Compliance Requirements

All commercial business facilities shall be required to comply with the provisions of this Ordinance.

§ 94-27. Prohibition Of The Collection Of 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 owner or occupant to properly segregate the uncollected waste for proper disposal and/or recycling. Allowing such unseparated solid waste and recyclables to accumulate at the curbside beyond 7:00 p.m. on the day of collection will be considered a violation of this ordinance 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 any personnel authorized by the municipality or the owner or occupant responsible for placement of the Designated Recyclable Materials for collection, shall tamper with, collect, remove, or otherwise handle Designated Recyclable Materials. Upon placement of such Designated Recyclable Material, it shall become property of the municipality or its authorized agent. It shall be a violation of this ordinance for any person not duly authorized to collect or pick up or cause to be collected or picked up any Recyclable Materials that are the property of the municipality as provided for above.

§ 94-28 Construction, Renovation and Demolition DEBRIS Recovery Plan

For all activities that require municipal approval such as construction, demolition or public event permits, a Designated Recyclable Materials plan shall be filed along with all other required permit conditions. The plan shall include provisions for the recovery of all Designated Recyclable Materials generated during construction, renovation and demolition activities, as well as, public events.

§ 94-29 Compliance with Diversion Requirement

The Municipal Recycling Coordinator shall review the information submitted pursuant to this Section of the Ordinance and determine, prior to the issuance of the municipal approval or permit, whether the plan submitted by the owner of the entity carrying out the covered activity will comply or fail to comply with the recycling requirements set forth herein. The determination regarding compliance will be provided to the Construction Official and the owner of the entity carrying out the covered project in writing. When such plan is deemed not compliant, the Municipal Recycling Coordinator shall include specific conditions to be implemented by the permit holder to achieve compliance. It shall be a violation of this Ordinance for any owner or permit holder to fail to comply with the recycling requirements set forth herein.

§ 94-30 – Enforcement

The Municipal Recycling Coordinator is hereby individually and severally empowered to enforce the provisions of this Ordinance. The enforcers of the ordinance may conduct an inspection at the site of the generator, which consists of

sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any Designated Recyclable Material.

Additionally, the Cape May County Health Department (CMCHD) shall be empowered to enforce the provisions of this Ordinance. The municipality shall retain primary enforcement responsibility with the CMCHD serving in a secondary enforcement role, which includes inspection of commercial establishments with proof of prior law enforcement actions.

§ 94-31 Severability AND Effective Date

If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by a Court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

This Ordinance shall take effect immediately upon enactment by the governing body of the municipality.

§ 94-32 – RULES AND REGULATIONS

The governing body is hereby authorized to promulgate, from time to time, additional rules and regulations relating to the Source Separation, preparation, placement and collection of Recyclable Materials pursuant to the provisions of this program and subchapter; provided, however, that such rules and regulations shall not be inconsistent with terms and provisions of this subchapter and shall be approved by the governing body. Such rules and regulations shall be duly promulgated subsequent to publication so that the public has had notice thereof.

§ 94-33 – PENALTY

Any person or entity violating, or failing to comply with, any of the provisions provided in this Ordinance shall, upon conviction thereof, be punishable by a fine of not less than \$50 and not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the municipal judge. The continuation of any violation for each successive day shall constitute a separate offense, and the person, persons, or entity allowing or permitting the continuation of the violation may be punished as provided above for each separate offense. Any violation may be afforded one warning at the discretion of the enforcement designees before the issuance of any fines.