Abington Township
PADEP Recycling Technical Assistance
Food Waste Diversion

Abington Township
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SCS ENGINEERS

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Table of Contents

Section Page

1 Background 3
2 Project Description 4
3 Results 5
Food Waste Quantities 5
Resident Survey 6
Commercial Food Waste Generators 8
Review Refuse Code 9
4 Conclusion 11

Appendices

Appendix A – Resident Food Waste Survey Results

Appendix B – Abington Garbage and Refuse Code

1 BACKGROUND

Abington Township (Township) is in Montgomery County and has a population of over 58,000 residents. The Township is a Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) mandated recycling community. The Township collects recyclable materials curbside from about 18,000 households on a weekly basis as well as recyclable materials from small businesses and commercial properties. Abington Township is part of a recycling consortium that comprises seven municipalities in Montgomery County. The consortium owns a transfer station in Upper Dublin Township where recyclable materials collected by each of the seven municipalities are consolidated prior to being transported to a processing facility. The consortium contracts with a private company to operate the facility. Approximately 15,000 tons of recyclable materials are brought to the transfer station annually.

Abington Township's recycling program is unique from all other consortium members' programs in that it is a fully automated dual-stream program. Recyclable containers (plastic, metal, glass, etc.) are collected commingled together in one container while all paper, including cardboard, are collected in a separate container. Both paper and commingled containers are collected weekly the same day as trash. There are three commingled routes and three paper routes for a total of six routes that operate five days a week. Paper is consolidated at the Township's public works facility and loaded into transfer trailers for transport to Newman Paperboard, Inc. in Philadelphia. Commingled materials are transported to the recycling consortium's transfer station in Upper Dublin Township.

The Township's Public Works Department also collects lawn and garden debris year-round on residents' regularly scheduled trash and recycling collection day. Yard Waste will only be collected in brown biodegradable bags and/or 35 gallon or smaller containers.

Abington Township requested recycling technical assistance to explore options for third party organics/food waste haulers and processors to provide services within the Township.

2 PROJECT DESCRIPTION

This section summarizes the work activities performed as part of this recycling technical assistance project.

Task #1: Project Kick-Off Meeting and Quantifying Food Waste Generation

SCS staff held a virtual project kick-off meeting with the client in early November. The meeting reviewed the project tasks, schedule, and budget. This task also included estimating the amount of food waste generated in the Township. To do this, SCS staff used the 2022 Pennsylvania Waste composition data and the Township's waste tonnage totals. The final part of this task was to research local haulers that provide organics/food waste collection services.

Task #2: Survey of Residents and Contact with Large Generators

SCS designed a Microsoft forms survey for Township residents to provide their opinion on vegetative food waste diversion activities. The Township used their resources to inform residents of the availability of the survey. While the survey was live, the SCS team received, tracked, compiled, and analyzed the responses. Additionally, SCS worked with the Township to identify commercial, large quantity generators of food waste in the Township (i.e. school district, colleges, hospitals, etc.) and conducted interviews with staff to understand what, if any, food waste diversion activities occur at their facilities and their interest in starting/expanding food waste diversion.

Task #3: Evaluate Composting Program Types

This Township provided SCS with the current solid waste/refuse code, including all amendments, for review. The purpose of the review was to identify barriers or obstacles that prevent or make it illegal for the separate storage and/or collection of organic materials, including food waste, in the Township. Using the knowledge from this review, SCS staff recommended changes to the code that may enable and encourage third party organics/food waste collection programs.

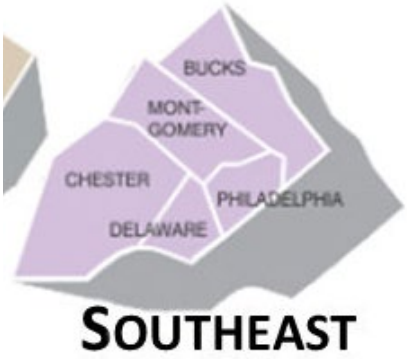
Task #4: Final Report

This report represents the final task of this project and includes our findings and recommendations.

3 RESULTS

FOOD WASTE QUANTITIES

To better understand the opportunities for a food diversion program it is important to understand the volume of food waste disposed. In 2022, the Pennsylvania Department of Environmental Protection conducted a comprehensive statewide waste characterization study. The study quantified waste disposal in the six different Pennsylvania Department of Environmental Protection (DEP) regions of the state. Data from this study was used to estimate the amount of food waste disposed in Abington Township.



According to the Study, the disposed waste stream in the Southeast Region is 18.9 percent food waste by weight or approximately 598,500 tons annually[1]. This region includes Bucks, Montgomery, Chester, Delaware, and Philadelphia counties. It is important to note that this figure is an aggregation of the residential and commercial, institutional, and industrial sectors and of urban, suburban, and rural areas of the region. SCS staff used the Southeast Region food waste composition percentage and applied it to the total amount of waste collected and sent for disposal in Abington Township to estimate an approximate quantity of food waste disposed. This calculation does not account for food waste generated and is not sent for disposal in the Township. The calculation also does not include food waste collected and disposed in waste streams that the Township does not manage or have control over. Based on this data, SCS estimates about 3,418 tons of food waste is disposed annually in the Township. A summary of this calculation is provided in **Table 1**.

Table 1. Summary of Food Waste Quantity Disposed

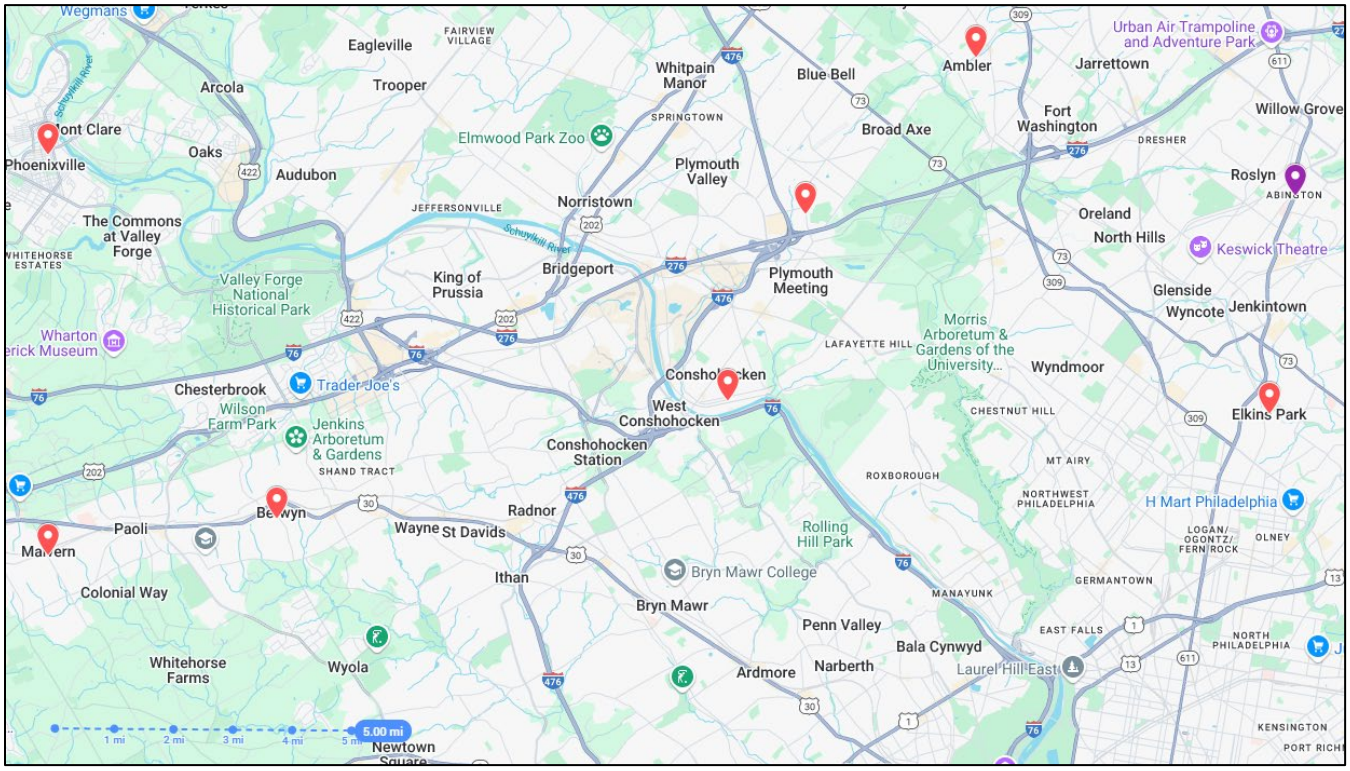
Data Description	Value	Data Source
Food Waste Composition	**18.9%**	Waste Characterization Study; Pennsylvania Department of Environmental Protection' September 2022;
Total Waste Quantity Disposed (2023)	**18,083 tons**	Abington Township; personal communication 11/19/2024
Estimated Food Waste Quantity Disposed	**3,418 tons**	--

SCS staff researched waste haulers serving the Township and region that provide food waste collection services. SCS staff identified one hauler, Back to Earth Compost, which provides curbside compost collection services to residential and commercial properties in Abington Township. Additional research on Back to Earth Compost revealed they provide weekly curbside residential and onsite commercial collection of compostable materials, including food waste. They also manage drop-off collection sites with partnering locations throughout the suburban Philadelphia area on set

[1] Waste Characterization Study; Pennsylvania Department of Environmental Protection' September 2022; https://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Documents/2022/PA_DEP_Report_FINAL_10-04-2022.pdf

periods. The nearest Back to Earth Compost collection site to Abington Township is in the unincorporated community of Elkins Park, approximately four miles from the Township. Curbside/onsite and drop-off food waste collection services are provided by Back to Earth Compost for a fee. The Back to Earth food waste/organics drop-off locations near Abington Township are detailed in **Figure 1**.

Figure 1. Back to Earth Compost Drop-Off Locations



- Orange markers indicate drop-off location.
- Purple marker indicates location of Abington Township

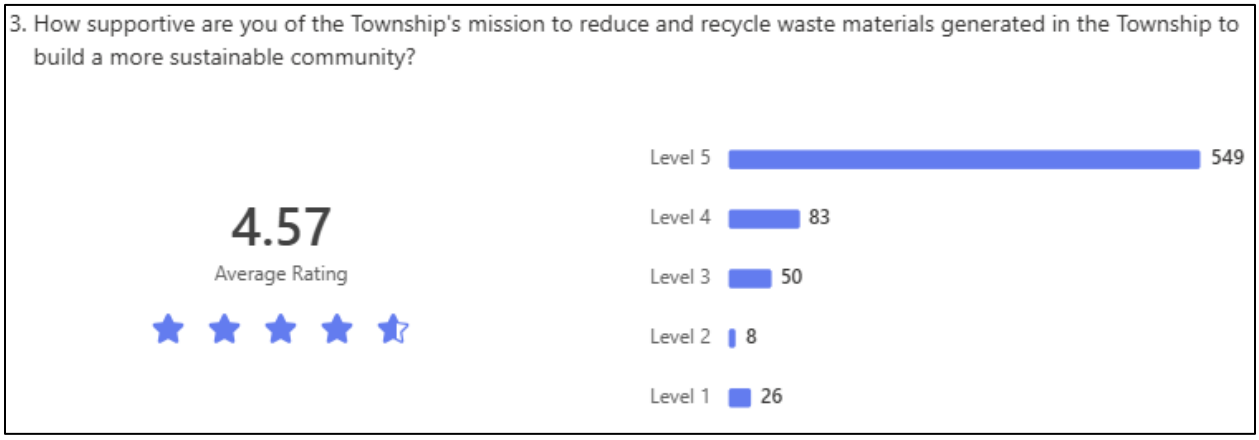
RESIDENT SURVEY

The success of a food waste/scrap diversion program requires active participation from residents of the community to actively separate food waste/scrap at the point of generation from the disposed waste stream. To better understand potential participation rates and/or levels, Abington Township sought to understand residents' interest in participating in a food waste diversion program. To engage members of the community, a survey was designed and promoted to residents by Township staff. Over the course of three weeks approximately 700 Abington residents provided their feedback and opinions about current food waste/scraps management practices and their interest in participating in a food waste diversion program. This section summarizes the results of the survey. The full survey results are included in **Appendix A.**

Residents are supportive of the Township's mission to create a more sustainable community, with an average rating of 4.57 out of 5 in support. Some respondents indicated they participate in additional

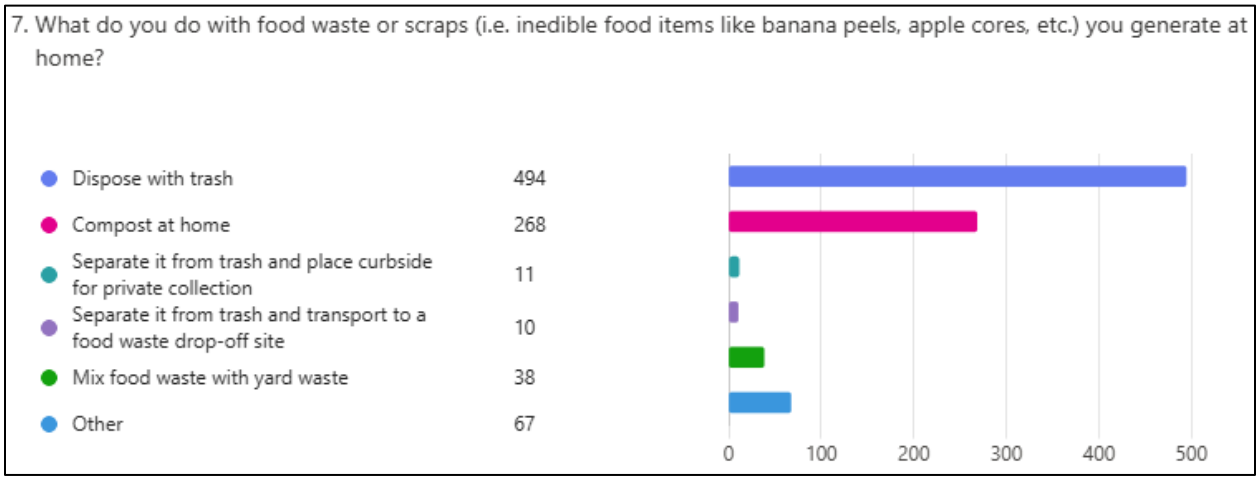
recycling programs including e-waste drop off, scrap metal recycling, and textile recycling. While the high recycling participation levels reported are a positive sign residents would support food waste diversion, it is unlikely the Township would see high participation levels in such a program, at least initially. **Figure 2** summarizes resident support of Abington Township's sustainability practices.

Figure 2. Resident Support of Abington Township Sustainability Practices



Abington residents report they aim to minimize food waste by eating leftovers, meal planning, preparing smaller portions, and avoiding buying food in bulk. These practices reduce the amount of excess food that may enter the waste stream. However, residents report that food waste/scraps that are generated following these management practices are primarily disposed in the trash. Some residents report managing food waste through backyard composting programs and even smaller numbers of residents' report mixing food waste with yard waste or having it collected separately by a private hauler or transporting it to a drop-off site. **Figure 3** summarizes current food waste management practices utilized by Township residents.

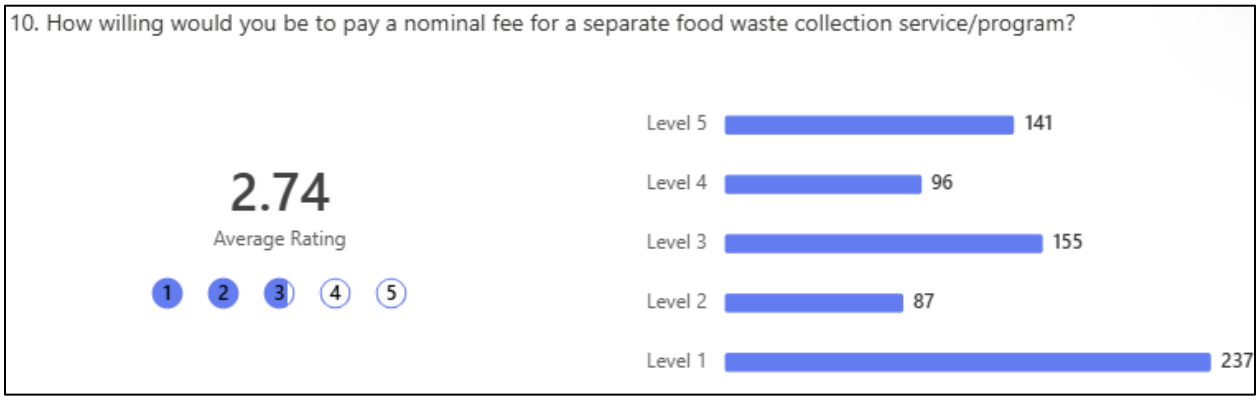
Figure 3. Residents' Food Waste/Scraps Management Methods



The survey results indicated there was general support among residents for the expansion of the solid waste program to include separate food waste/scraps collection. Some responses indicated concern about the efficacy of implementing source-separation of food waste when it can be challenging for some residents to properly separate recyclable materials from trash.

Residents support sustainability efforts by the Township, including the addition of a food waste/scraps collection or composting program. When asked about their willingness to participate in a program for a nominal fee, not surprisingly, support significantly decreased. Many residents cited financial concerns as the primary reason they are not willing to pay additional fees to participate. Residents that already compost food waste in their backyards prefer not to want to pay for a service they will not participate in. **Figure 4** summarizes the willingness of residents to pay a nominal fee to participate in a food waste program.

Figure 4. Willingness to Pay for Separate Food Waste Collection



Residents who completed the survey overwhelmingly support a sustainable community and participate in the recycling program offered by the Township. However, residents currently are not interested in paying for separate food waste collection when a fee is required. This suggests that if a food waste collection program is established it should be part of the suite of residential waste management services provided by the Township and the cost of the program should be integrated into the base cost for these services.

COMMERCIAL FOOD WASTE GENERATORS

The 2022 Pennsylvania Statewide Waste Characterization Study recorded that food waste/scraps comprise 22.8 percent of all waste generated by commercial waste streams in southeastern Pennsylvania. Abington Township sought to understand current diversion practices and interest in expanding/starting food waste diversion programs at commercial, large food waste generating facilities in the Township. With input from the Township, SCS identified commercial, large quantity food waste generators (institutions, schools, hospitals, etc.) located in Abington Township to survey current diversion practices and interest in starting/expanding food waste diversion at their facilities. A total of six organizations/institutions were identified for personal contact to discuss food waste management and diversion practices. **Table 1** lists the organizations/institutions contacts.

Table 1. Large Commercial Food Waste Generators in Abington Township

Name	Size of Generator
Abington School District	8,402 Students Enrolled
Penn State - Abington	3,000 Students Enrolled
Manor College	599 Students Enrolled
Sisters of St. Basil the Great	43 Residents

Jefferson Abington Hospital	665 Beds, 5,500 Employees
Holy Redeemer Hospital	239 Beds, 4,600 Employees

Manor College/Sisters of St. Basil the Great

The Vice President of Manor College discussed food waste diversion practices on their campus. Currently, the school does not currently compost food waste but is working with their food service provider, CulinArt, to begin a composting program. The College is interested in participating in a composting program. Manor College is connected with the Sisters of St. Basil the Great and mentioned they do some food waste composting, but would also be interested in participating if a program existed in the future.

Penn State - Abington

Representatives from the Housing and Food Services Department and the Chair of the Sustainability Council at Pennsylvania State – Abington also discuss food waste management. Their campus is primarily a commuter campus and only serves lunch at their dining hall. Therefore the amount of food waste generated at this location is less than many other Penn State Unversity campuses. In the past, there was volunteer based compost programs at the school, but during the pandemic momentum to keep operating decreased which caused the program to end. Currently, there is not a food waste diversion program available. If a program were to be offered they would be interested in having discussions about what participation may look like.

Holy Redeemer Hospital

The Director of Environmental Services for Holy Redeemer Hospital spoke with SCS about food waste management and potential to participate in diversion program. The Hospital currently disposes all of the food waste generatd at the property in the trash, partly because of the high volume of material produced. They tried a pilot program once and took one days worth of kitchen scraps to a community compost and innundated the site with raw material. The Director of Environmental Services would be interested in participating in a composting/food waste diversion program. There were three main concerns brought up, the location where materials would be taken to, the storage of materials to prevent vectors, and the transportation of materials.

Abington School District

SCS Engineers contacted Abington School District multiple times, but were unable to reach someone to discuss food waste practices.

Jefferson Abington Hospital

SCS Engineers contacted Jefferson Abington Hospital multiple times, but were unable to reach someone to discuss food waste practices.

REVIEW REFUSE CODE

Abington Township was also concerned that sections of the Township code would prevent the separate collection of food waste. SCS reviewed the Abington Township codes to verify all chapters

and articles allowed for the separate collection of food waste/scraps. The following chapters of the Township code were reviewed:

- 73: Dumpsters and Portable Storage
- 88: Food Handling Establishments
- 92: Garbage, Rubbish, and Refuse
    - Article I – Collection from Residential and Multi-residential Dwelling Units and Retail, Commercial and Industrial Establishments
    - Article III – Dumping
    - Article VI – Solid Waste Disposal
    - Article VII – Separation, Storage and Collection of Recyclable Materials
- 108: Nuisances
    - Article II – Health Nuisances

Full chapters of Abington Township code are included in **Appendix B**.

Township staff were particularly concerned with the permitting/licensing of separate haulers for compostable materials. Permitting requirements are outlined in Chapter 92, Article VI Solid Waste Disposal. Upon review, the way Abington Township code Chapter 92, Article VI defines municipal waste and recycling it appears that food waste source-separated from municipal waste would no longer be classified as municipal waste and instead could fall under the definition of "recycling or recycled" as written. Based on the Abington Township ordinance, recycling or recycled materials are not subject to the same permitting or licensure requirements stated for municipal waste. Regardless of the definition applied to source-separated food waste the responsibility of permitting/licensing solid waste haulers falls on either the County or the Municipal Waste Authority unless the municipality has been directed otherwise.

Additionally, Chapter 92, Article III Dumping and Chapter 108, Article II Health Nuisances contain language that could be interpreted as restricting the separation and collection of food waste and scraps. Chapter 92, Article III Dumping, states:

> "*It shall likewise be unlawful to keep or suffer to remain on any premises within the Township of Abington any garbage, decayed or offensive or unwholesome matter of any kind or any trash or rubbish.*"

Chapter 108, Article II Health Nuisances may also restrict the separate collection of food scraps. The code states:

> "…no putrid or decaying animal and vegetable matter shall be kept in any house, cellar or adjoining buildings in an unsanitary manner on any premises."

Depending on the definition of "unsanitary manner" applied, the separate storage and subsequent collection of compostable materials may pose a conflict with the existing Township code. SCS recommends these sections be modified to specifically allow for the separation of food waste. Both Chapters may be amended by adding a statement that neither of these provisions aim to prohibit the source-separation and collection of food waste and scraps for beneficial use (i.e., composting, anaerobic digestion, etc.) or to impact sites at which source-separation of food waste may take place.

It is recommended that proposed changes to the Abington Code be reviewed with DEP's regional and county recycling coordinators and the Township Solicitor prior to modification. SCS Engineers is not providing legal advice with respect to modifying the Abington Code.

4 CONCLUSION

Abington Township residents and businesses primarily manage food waste/scraps generated through disposal programs. This provides an opportunity for encouraging residents, business owners, and private haulers to reconsider how food waste/scraps are generated and options and opportunities for reduction and diversion. The success of the program would depend on the support and participation by the residents and business owners. Based on the survey results, residents would support a program to divert food waste unless additional fees are required. A program for food waste diversion should be flexible, allowing residents in support to participate and those who are not the ability/option to opt out. In addition, some commercial large quantity food waste generators contacted expressed interest in beginning or increasing food waste diversion depending on the specifics of the program.

A few chapters of Township code may need to be updated to explicitly allow for the separate collection of food waste. Before beginning a program in earnest, Abington Township should review these articles with the Township Solicitor in the context of source-separated food waste to verify the code does not restrict these activities. The Township and their Solicitor should also review their ordinances to ensure that the language within reflects current program practices.

Appendix A

Food Waste Survey Results

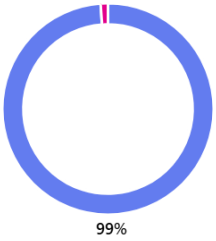
Responses Overview

Closed

Responses	Average Time	Duration
716	05:21	112 Days

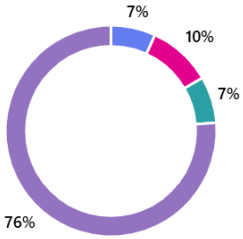
1. Are you a current resident of Abington Township?

Yes	708
No	8



2. How long have you lived in Abington Township?

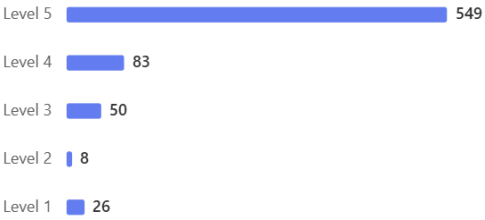
0-3 years	49
4-6 years	70
7-10 years	51
More than 10 years	546



3. How supportive are you of the Township's mission to reduce and recycle waste materials generated in the Township to build a more susta inable community?

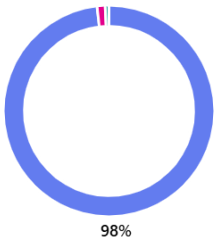
4.57

Average Rating



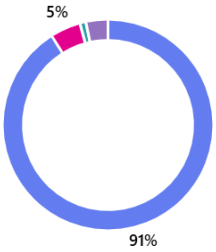
4. Do you separate materials (i.e. paper, bottles, cans, etc.) for recycling at your home?

Yes	703
No	9
Other	4



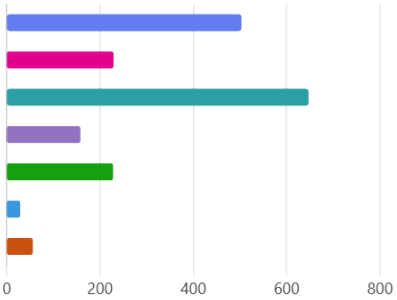
5. What do you do with materials you separate for recycling at your home?

Place curbside for Township collection	701
Transport to recycling drop off facility	36
Nothing. I do not separate materials for recycling at my home	7
Other	26



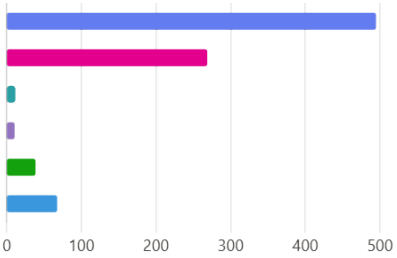
6. What steps do you take at home to avoid or reduce the amount of food you throw away?

Meal planning and coordination/targeted grocery shopping	502
Prepare smaller portions	228
Eat leftovers	646
Donate/give away extra food (i.e. food pantry, family/friends, etc.)	157
Avoid buying food in bulk	227
None of the above/not an issue	28
Other	55



7. What do you do with food waste or scraps (i.e. inedible food items like banana peels, apple cores, etc.) you generate at home?

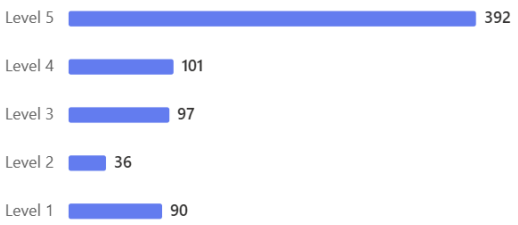
Dispose with trash	494
Compost at home	268
Separate it from trash and place curbside for private collection	11
Separate it from trash and transport to a food waste drop-off site	10
Mix food waste with yard waste	38
Other	67



8. How likely are you to support/participate in a separate food waste collection service/program in the Township?

3.93

Average Rating



9. Please provide feedback regarding your selected rating above.

432

Responses

Latest Responses

"After above we don't have much food waste left ."

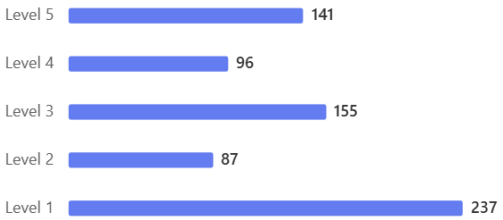
141 respondents (33%) answered compost for this question.

Update

10. How willing would you be to pay a nominal fee for a separate food waste collection service/program?

2.74

Average Rating



11. Please provide feedback regarding your selected rating above.

419
Responses

Latest Responses
• • •

71 respondents (17%) answered compost for this question.

use up the compost
fees and taxes
Depends on the cost
taxes are high
compost food
home compost
fixed income
township
compost
program
depends on what the fee
small fee
food waste
composting services
fee for a compost
nominal fee
pay enough taxes
waste collection
extra fees
currently pay

12. Please share any additional thoughts you have on how the Township may support the diversion of food waste from trash disposal.

232
Responses

Latest Responses
"Should we add food waste to yard waste?"
• • •

64 respondents (28%) answered composting for this question.

Cost of food
food scrap
home composting
waste collection
yard waste
compost containers
residents
waste landfills
food waste
composting
township
waste disposal
People
food composting
composting bins
think
wasting food
compost sites
way to compost
waste over time

Appendix B

Abington Township Codes

Chapter 73

DUMPSTERS AND PORTABLE STORAGE UNITS

§ 73-1.	Definitions.	§ 73-7.	Number and size of units.
§ 73-2.	Applicability.	§ 73-8.	Condition of units.
§ 73-3.	Permit required; application; fee.	§ 73-9.	Storage of certain materials in portable storage units prohibited.
§ 73-4.	Duration.		
§ 73-5.	Exceptions.	§ 73-10.	Removal of units.
§ 73-6.	Location.	§ 73-11.	Violations and penalties.

[HISTORY: Adopted by the Board of Commissioners of the Township of Abington 11-8-2012 by Ord. No. 2007.]

GENERAL REFERENCES

Garbage, rubbish and refuse — See Ch. 92.

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§ 73-1. Definitions.

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

DUMPSTER — A trademarked brand of a large metal bin for disposal of refuse, to be temporarily located on a property, designed to be hoisted onto a specially equipped truck for emptying or hauling away of the refuse contained therein, or any similar device.

PORTABLE STORAGE UNIT — Any portable structure, not self-propelled, designed to store personal belongings outside of a principal structure on a property, whether constructed of inflexible or flexible material. By way of illustration only, such structures shall include, but shall not be limited to, those structures known and labeled as a "pod" or "Pack Rat" or "Bagster®."

UNIT — Either a portable storage unit or dumpster, as those terms are defined above.

§ 73-2. Applicability.

The provisions of this chapter pertaining to permitting, duration, time limitations, time extensions and number of units allowed on a property shall not apply to work performed under demolition and/or construction permits. Such units shall be removed from the property when the work being done under a demolition and/or construction permit shall be completed.

§ 73-3. Permit required; application; fee.

Before placing a unit on a property, the property owner must submit an application and receive a permit from the Township Code Enforcement Department. There shall be no fee for obtaining a permit; provided that, a property owner otherwise required to obtain a permit and who fails to do so will be subject to the penalty provided for in § 173-11.

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§ 73-4. Duration.

A unit shall be located at the applicant's address for a maximum of 30 days, including the days of delivery and removal. At the expiration of the thirty-day period, the applicant may request to extend his/her permit for not more than two additional thirty-day periods by requesting an extension for cause from the Township Code Enforcement Department. The cost of extending a permit shall be $25, payable at the time of application for an extension.

§ 73-5. Exceptions.

No extensions shall be granted in excess of 90 days, including the initial period, except upon written application of the property owner setting forth sufficient information to justify the extension, and stating the duration of the requested extension.

§ 73-6. Location.

A. The placement of a unit in the public right-of-way or the front yard of a residential property is prohibited, except as provided in Subsection B, below. Units must be placed, whenever possible, in the driveway of the property at the furthest accessible point from the street. The required parking space(s) shall at all times be maintained if a unit is placed in a parking area. The applicant must obtain approval of the location of the unit by the Township Code Department in the following situations: (1) If the property does not have a driveway; (2) If the driveway is located in the front yard of the property; and/or (3) If the property is a corner lot.

B. In those situations where placement of a unit on a property as provided for in Subsection A is not feasible, a property owner shall be permitted to place a unit in a public right-of-way, provided that such placement shall not obstruct any lane of travel, and provided further that the unit is marked with hazard warning placards as directed by the Traffic Safety Officer of the Abington Township Police Department. Additionally, placement of a unit in the public right-of-way or front yard must be approved by the Abington Township Code Enforcement Department.

§ 73-7. Number and size of units.

Only one unit may be placed on any residential property at one time. The unit may not exceed eight feet six inches in height, 10 feet in width, or 22 feet in length.

§ 73-8. Condition of units.

The applicant, as well as the person or entity supplying the unit, shall be responsible for ensuring that the unit is maintained in reasonably good condition, free from evidence of damage caused by other than normal wear and tear. In no event shall a use of a unit marked with graffiti or containing holes, tears or punctures be permitted to be placed.

§ 73-9. Storage of certain materials in portable storage units prohibited.

No portable storage unit shall be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, or any illegal or hazardous material. Upon reasonable notice to the applicant, the Township may inspect the contents of any portable storage unit, at any reasonable time to ensure that it is not being used to store such materials.

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§ 73-10. Removal of units.

Any unit which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of the Township Code Department for removal of such unit for safety reasons, may be removed by the Township immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which the unit was located and may be filed as a lien against such property.

§ 73-11. Violations and penalties.

Any person or entity violating the provisions of this chapter shall be guilty of a summary offense, and, upon conviction before the local District Justice, shall be sentenced to pay a fine of not less than $300 nor more than $1,000, plus court costs.

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Chapter 88

FOOD HANDLING ESTABLISHMENTS

ARTICLE I
Physical Examinations of Employees

§ 88-1. **Employment of certain persons prohibited.**
§ 88-2. **Certificates of examination.**
§ 88-3. **Carriers of typhoid fever.**
§ 88-4. **Violations and penalties.**

ARTICLE II
(Reserved)

§ 88-5. **(Reserved)**
§ 88-6. **(Reserved)**
§ 88-7. **(Reserved)**

ARTICLE III
Food Preparation Establishments

§ 88-8. **Authority of Department of Public Health.**
§ 88-9. **License required.**
§ 88-10. **Inspection of premises; fee.**
§ 88-11. **Hearing on denial of license.**
§ 88-12. **Separate license for each establishment.**
§ 88-13. **Expiration of license; renewal; fee.**
§ 88-14. **Contents of license; display.**
§ 88-15. **Notice of violation; hearing; proceedings; emergencies.**
§ 88-16. **Right of entry.**
§ 88-17. **Regulations.**
§ 88-18. **Violations and penalties.**

ARTICLE IV
Eating and Drinking Establishments

§ 88-19. **Authority of Department of Public Health.**
§ 88-20. **License required.**
§ 88-21. **Inspection of premises; fee.**
§ 88-22. **Hearing on denial of license.**
§ 88-23. **Separate license for each establishment.**
§ 88-24. **Expiration of license; renewal; fee.**
§ 88-25. **Contents of license; display.**
§ 88-26. **Notice of violation; hearing; proceedings; emergencies.**
§ 88-27. **Right of entry.**
§ 88-28. **Regulations.**
§ 88-29. **Violations and penalties.**

[HISTORY: Adopted by the Board of Commissioners of the Township of Abington as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage, rubbish and refuse — See Ch. 92.

Nuisances — See Ch. 108.

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ARTICLE I
Physical Examinations of Employees
[Adopted 3-9-1933 by Ord. No. 318]

§ 88-1. Employment of certain persons prohibited.

No person or persons, firm or corporation operating or conducting food, confectionery and produce stores or markets, or dairies, or who are engaged in the vending and marketing of milk, meats, fruits, produce, bakery products and all other foodstuffs in this township, shall hereafter employ or keep in their employ, in the capacity of clerk, salesperson, delivery person or other employees engaged in handling said foodstuffs, any person or persons who is or are suffering from trachoma, active tuberculosis of the lungs, open skin tuberculosis, syphilis, gonorrhea, open external cancer or barber's itch or from any communicable disease; and all persons so employed who, at the time of the adoption of this article, are suffering from any of the said diseases shall at once be excluded from such employment.

§ 88-2. Certificates of examination.

Every person so employed or permitted to work for any person or persons, firm or corporation operating or conducting any food, confectionery and produce stores or markets or any dairies, or who are engaged in the vending and marketing of milk, meats, fruits, produce, bakery products and all other foodstuffs in this township, shall obtain a certificate from a reputable registered doctor of medicine, certifying that such person is free from any of the diseases mentioned in § 88-1; and no person shall be employed or permitted to work as aforesaid in such food, confectionery and produce stores or markets, or dairies, or engage in the vending and marketing of milk, meats, fruits, produce, bakery products and all other foodstuffs in this township, without having first obtained such a certificate. Said certificate or certificates shall be filed with the Health Officer of Abington Township at the Township Building within five days from the date of said medical examination. The said medical certificate or certificates shall be valid for a period of six months and may be revoked at any time prior thereto if the condition of such person warrants it.

§ 88-3. Carriers of typhoid fever.

No person or persons, firm or corporation operating or conducting any food, confectionery and produce stores or markets or any dairies, or who are engaged in the vending and marketing of milk, meats, fruits, produce, bakery products and all other foodstuffs in this township, shall keep in their employ, in any of the several capacities mentioned in § 88-1, any person who is a carrier of typhoid fever, after notice that any such person so employed by them is a carrier of typhoid fever has been served in writing upon the owner, operator or manager of any such food, confectionery and produce store or market, dairy or business of vending and marketing milk, meats, fruits, produce, bakery products and all other foodstuffs, by a physician or the Health Officer of the township.

§ 88-4. Violations and penalties.

Any person convicted of violating this article shall be sentenced to pay the costs of prosecution and a fine not exceeding $50, and in default of payment of such costs and fine shall undergo imprisonment in the township lockup for a period not exceeding five days.

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ARTICLE II
(Reserved)[1]

§ 88-5. (Reserved)

§ 88-6. (Reserved)

§ 88-7. (Reserved)

1. **Editor's Note: Former Article II, Chest X Rays, adopted 12-11-1958 by Ord. No. 930, was repealed 10-14-1976 by Ord. No. 1434.**

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ARTICLE III
Food Preparation Establishments
[Adopted 12-11-1958 by Ord. No. 927]

§ 88-8. Authority of Department of Public Health.

The Department of Public Health of the Township of Abington, in order to protect the health and safety of the people of the township, is authorized and directed, by implementing and enforcing the provisions of this article, to control the conduct and operation of food establishments within the township.

§ 88-9. License required.

From and after January 1, 1959, it shall be unlawful for any person to conduct or operate a food establishment where food or beverage intended for human consumption is kept, stored, manufactured, prepared, dressed, handled, sold or offered for sale, with or without charge, either at wholesale or retail, within the Township of Abington, without first obtaining a license therefor.

§ 88-10. Inspection of premises; fee. [Amended 2-13-1975 by Ord. No. 1396]

A. No license shall be issued until inspection of the premises, facilities and equipment has been made by a duly authorized representative of the Department of Public Health of the Township of Abington. The fee for the license shall be $1 and shall be paid by each applicant at the time of making application for a license. The applicant shall also pay annual inspection fees, based upon the floor area of the food establishment, as follows: **[Amended 3-12-1981 by Ord. No. 1521]**

Floor Area (square feet)	License Fee	Inspection Fee	Total Fee
Under 1,500	$1.00	$29.00	$30.00
1,501 to 2,500	$1.00	$39.00	$40.00
2,501 to 5,000	$1.00	$49.00	$50.00
5,001 to 7,500	$1.00	$69.00	$70.00
7,501 to 10,000	$1.00	$99.00	$100.00
10,001 to 15,000	$1.00	$149.00	$150.00
15,001 and over	$1.00	$199.00	$200.00

B. Mobile food vendors and hucksters shall pay an annual inspection fee of $19 in addition to the annual license fee of one dollar. **[Amended 3-12-1981 by Ord. No. 1521]**

C. Pro rata inspection fees. If any applicant first makes application on or after July 1 of any calendar year, the annual inspection fee shall be reduced by 50%.

§ 88-11. Hearing on denial of license.

Any person whose application for a license is denied may request and shall be granted a hearing before the Department of Public Health, as hereinafter provided.

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§ 88-12. Separate license for each establishment.

Whenever any person maintains more than one food establishment, such person shall be required to apply for and procure a separate license for each food establishment.

§ 88-13. Expiration of license; renewal; fee.

A license issued under this article shall expire on the 31st day of December of each year. Licenses shall be renewable annually in the same manner and upon payment of the same annual fee as provided in § 88-10.

§ 88-14. Contents of license; display.

Licenses herein provided for shall specify the date of issuance, the name of the licensee and the place licensed. Such licenses shall be conspicuously displayed at all times in the place so licensed. Licenses shall not be transferable.

§ 88-15. Notice of violation; hearing; proceedings; emergencies.

A. Whenever the Department of Public Health or duly authorized representative thereof determines that there are reasonable grounds to believe that there has been a violation of any provisions of this article or of any regulation adopted pursuant thereto, it shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided.

(1) Such notice shall:

(a) Be put in writing.

(b) Include a statement of the reasons why it is being issued.

(c) Allow a reasonable time for the performance of any act it requires.

(d) Be served upon the holder of a license issued under this article, or upon the owner or the owner's agent or the occupant of any premises, provided that such notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of this state.

(2) Such notice may:

(a) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(b) State that unless conditions or practices described in such notice which violate this article are corrected within the reasonable time specified in such notice, the license which has been issued pursuant to this article may be suspended or revoked.

B. Any person who is affected by any notice which has been issued in connection with the enforcement of any provisions of this article or of any regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Department of Public Health, provided that such person shall file in the office of the Department a written petition requesting such hearing and setting forth a brief statement of the ground therefor within 10 days after the day the notice was served. Upon receipt of such petition, the Department of Public Health shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than 10 days after the day on which the petition

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was filed, provided that upon application of the petitioner the Department of Public Health may postpone the date of the hearing for a reasonable time beyond such ten-day period when in its judgment the petitioner has submitted a good and sufficient reason for such postponement.

C. After such hearing, the Department of Public Health shall sustain, modify or withdraw the notice, depending upon its finding based on such hearing as to whether or not the provisions of this article and of the regulations adopted pursuant thereto have been complied with. If the Department of Public Health sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written petition for a hearing has not been filed in the office of the Department of Public Health within 10 days after such notice was served. In the case of any notice which states that a license required by this article may be suspended or revoked, the Department of Public Health may suspend or revoke such license if an order is issued and corrective action is not taken within the time specified in the notice.

D. The proceedings at such hearing, including the findings and decision of the Department of Public Health, shall be summarized, put into writing and entered as a matter of public record in the office of the Department. Such record shall include also a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Department of Public Health may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

E. Whenever the Department of Public Health finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health, it may, without notice or hearing, issue a written order citing the existence of such an emergency and the conditions violating this article or regulations adopted pursuant thereto which require corrective action to remove such health hazard. If such corrective action is not taken, the Department of Public Health may thereafter take such action as may be necessary to protect the public health, including complete shutdown. Notwithstanding other provisions of this article, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Department of Public Health shall be afforded a hearing as soon as possible, but in any case not later than three days after the petition was filed. After such hearing, depending upon its finding as to whether or not the provisions of this article and of the regulations adopted pursuant thereto have been complied with, the Department of Public Health shall continue such order in effect, or modify it or revoke it.

§ 88-16. Right of entry.

The Department of Public Health shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this article.

§ 88-17. Regulations.

The Department of Public Health is hereby authorized and directed to adopt such written regulations as may be necessary for the implementation and enforcement of the provisions of this article. The Department shall file a certified copy of all regulations which it may adopt with the Township Secretary, and such regulations shall be made available for inspection by the public on request. Such regulations shall have the same force and effect as the provisions of this article, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this article, as hereafter provided. The Township of Abington Department of Public Health regulations governing food establishments in the township shall be those approved by the Board of Township Commissioners on the 11 day of December 1958 and/or as may be modified or changed by the Department of Public Health and further approved by the Board of Township Commissioners.

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§ 88-18. Violations and penalties.

Any person who shall violate any provision of this article or any regulation adopted thereunder, upon conviction, shall be punished by a fine of not more than $50, and each day's failure to comply with any such provision shall constitute a separate violation.

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ARTICLE IV
Eating and Drinking Establishments
[Adopted 12-11-1958 by Ord. No. 928]

§ 88-19. Authority of Department of Public Health.

The Department of Public Health of the Township of Abington, in order to protect the health and safety of the people of the township, is authorized and directed, by implementing and enforcing the provisions of this article, to control the conduct and operation of public eating and drinking places within the township.

§ 88-20. License required.

From and after January 1, 1959, it shall be unlawful for any person to conduct or operate a public eating or drinking place within the Township of Abington without first obtaining a license therefor.

§ 88-21. Inspection of premises; fee. [Amended 2-13-1975 by Ord. No. 1395]

A. No license shall be issued until inspection of the premises, facilities and equipment has been made by a duly authorized representative of the Department of Public Health of the Township of Abington. The fee for the license shall be $1 and shall be paid by each applicant at the time of making application for a license. The applicant shall also pay annual inspection fees, based upon the number of seats in the eating and drinking place, as follows: **[Amended 3-12-1981 by Ord. No. 1522]**

Number of Seats	License Fee	Inspection Fee	Total Fee
0 to 75	$1.00	$49.00	$50.00
76 to 150	$1.00	$69.00	$70.00
151 to 300	$1.00	$99.00	$100 00
301 to 500	$1.00	$159.00	$160.00
Over 500	$1.00	$199.00	$200.00

B. Pro rata inspection fees. If any applicant first makes application on or after July 1 of any calendar year, the annual inspection fee shall be reduced by 50%.

§ 88-22. Hearing on denial of license.

Any person whose application for a license is denied may request and shall be granted a hearing before the Department of Public Health, as hereinafter provided.

§ 88-23. Separate license for each establishment.

Whenever any person maintains more than one public eating or drinking place, such person shall be required to apply for and procure a separate license for each eating or drinking place.

§ 88-24. Expiration of license; renewal; fee.

A license issued under this article shall expire on the 31st day of December of each year. Licenses shall be renewable annually in the same manner and upon payment of the same annual fee as provided in § 88-21 hereof.

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§ 88-25. Contents of license; display.

Licenses herein provided for shall specify the date of issuance, the name of the licensee and the place licensed. Such licenses shall be conspicuously displayed at all times in the place so licensed. Licenses shall not be transferable.

§ 88-26. Notice of violation; hearing; proceedings; emergencies.

A. Whenever the Department of Public Health or duly authorized representative thereof determines that there are reasonable grounds to believe that there has been a violation of any provisions of this article or of any regulation adopted pursuant thereto, it shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided.

(1) Such notice shall:

(a) Be put in writing.

(b) Include a statement of the reasons why it is being issued.

(c) Allow a reasonable time for the performance of any act it requires.

(d) Be served upon the holder of a license issued under this article, or upon the owner or the owner's agent or the occupant of any premises, provided that such notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of this state.

(2) Such notice may:

(a) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(b) State that unless conditions or practices described in such notice which violate this article are corrected within the reasonable time specified in such notice, the license which has been issued pursuant to this article may be suspended or revoked.

B. Any person who is affected by any notice which has been issued in connection with the enforcement of any provision of this article or of any regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Department of Public Health, provided that such person shall file in the office of the Department a written petition requesting such hearing and setting forth a brief statement of the ground therefor within 10 days after the day the notice was served. Upon receipt of such petition, the Department of Public Health shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than 10 days after the day on which the petition was filed, provided that upon application of the petitioner the Department of Public Health may postpone the date of the hearing for a reasonable time beyond such ten-day period when in its judgment the petitioner has submitted a good and sufficient reason for such postponement.

C. After such hearing, the Department of Public Health shall sustain, modify or withdraw the notice, depending upon its finding based on such hearing as to whether or not the provisions of this article and of the regulations adopted pursuant thereto have been complied with. If the Department of Public Health sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written petition for a hearing has not been filed in the office of the Department of Public Health within 10 days after such notice was served. In the case of any notice

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which states that a license required by this article may be suspended or revoked, the Department of Public Health may suspend or revoke such license if an order is issued and corrective action is not taken within the time specified in the notice.

D. The proceedings at such hearing, including the findings and decision of the Department of Public Health, shall be summarized, put into writing and entered as a matter of public record in the office of the Department. Such record shall include also a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Department of Public Health may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

E. Whenever the Department of Public Health finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health, it may, without notice or hearing, issue a written order citing the existence of such an emergency and the conditions violating this article or regulations adopted pursuant thereto which require corrective action to remove such health hazard. If such corrective action is not taken, the Department of Public Health may thereafter take such action as may be necessary to protect the public health, including complete shutdown. Notwithstanding other provisions of this article, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Department of Public Health shall be afforded a hearing as soon as possible, but in any case not later than three days after the petition was filed. After such hearing, depending upon its finding as to whether or not the provisions of this article and of the regulations adopted pursuant thereto have been complied with, the Department of Public Health shall continue such order in effect, or modify it or revoke it.

§ 88-27. Right of entry.

The Department of Public Health shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this article.

§ 88-28. Regulations.

The Department of Public Health is hereby authorized and directed to adopt such written regulations as may be necessary for the implementation and enforcement of the provisions of this article. The Department shall file a certified copy of all regulations which it may adopt with the Township Secretary, and such regulations shall be made available for inspection by the public on request. Such regulations shall have the same force and effect as the provisions of this article, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this article, as hereafter provided. The Township of Abington Department of Public Health regulations governing public eating and drinking places in the township shall be those approved by the Board of Township Commissioners on the 11th day of December 1958 and/or as may be modified or changed by the Department of Public Health and further approved by the Board of Township Commissioners.

§ 88-29. Violations and penalties.

Any person who shall violate any provision of this article or any regulation adopted thereunder, upon conviction, shall be punished by a fine of not more than $50, and each day's failure to comply with any such provision shall constitute a separate violation.

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Chapter 92

GARBAGE, RUBBISH AND REFUSE

ARTICLE I
Collection From Residential and Multiresidential Dwelling Units and Retail, Commercial and Industrial Establishments

§ 92-1. **Definitions.**
§ 92-2. **Places to be served.**
§ 92-3. **Responsibility of owner or occupant.**
§ 92-4. **Collection of recyclable material.**
§ 92-5. **Enforcement; right of entry.**
§ 92-6. **Scavengers prohibited.**
§ 92-7. **Rules and regulations.**
§ 92-8. **Violations and penalties.**

ARTICLE II
(Reserved)

§ 92-9. **through § 92-14. (Reserved)**

ARTICLE III
Dumping

§ 92-15. **Dumping of garbage or rubbish prohibited.**
§ 92-16. **Maintenance of premises.**
§ 92-17. **Violations and penalties.**

ARTICLE IV
Residential Refuse Fees

§ 92-18. **Payment of fee; collection.**
§ 92-19. **Payment due date; delinquent payment procedures and fee schedule for delinquent collections.**

ARTICLE V
Fee for Collection from Commercial and Institutional Establishments

§ 92-20. **Declaration.**
§ 92-21. **Places to be served.**
§ 92-22. **Exceptions.**
§ 92-23. **Fee.**
§ 92-24. **Violations and penalties.**

ARTICLE VI
Solid Waste Disposal

§ 92-25. **Definitions.**
§ 92-26. **Licensing and collection regulations.**
§ 92-27. **Disposal and recycling.**
§ 92-28. **Scope of regulations; enforcement.**
§ 92-29. **Annual survey.**
§ 92-30. **Operations restrictions.**
§ 92-31. **Municipal Waste Authority.**
§ 92-32. **Unlawful conduct.**
§ 92-33. **Violations and penalties.**
§ 92-34. **Revocation of license.**
§ 92-35. **Injunctions; concurrent remedies.**
§ 92-36. **Intermunicipal agreement.**
§ 92-37. **Construal of provisions.**
§ 92-38. **Compliance with IMA.**

ARTICLE VII
Separation, Storage and Collection of Recyclable Materials

§ 92-39. **Program established.**
§ 92-40. **Definitions.**
§ 92-41. **Residential separation and preparation requirements.**
§ 92-42. **Collection from residence.**
§ 92-43. **Unauthorized collection.**

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§ 92-44. Multifamily, commercial, retail and institutional requirements.

§ 92-45. Violations and penalties.

§ 92-46. Board to adopt rules and regulations.

[HISTORY: Adopted by the Board of Commissioners of the Township of Abington as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Burning — See Ch. 65.

Food handling establishments — See Ch. 88.

Housing standards — See Ch. 98.

Nuisances — See Ch. 108.

Recycling — See Ch. 127.

Abandoned refrigerators — See Ch. 128.

Sewers and sewage — See Ch. 132.

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ARTICLE I
Collection From Residential and Multiresidential Dwelling Units and Retail, Commercial and Industrial Establishments
[Adopted 6-13-1974 by Ord. No. 1378]

§ 92-1. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them in this section:

COMMERCIAL — Includes but is not limited to mercantile and merchandising establishments, offices, professional buildings, medical buildings and hospitals, veterinarians' offices or hospitals, recreational buildings, convalescent homes, churches, schools and colleges, institutions, automobile parts and service stations, automotive sales both new and used, commercial banks and banking institutions, service shops, tailor shops, dry-cleaning establishments, laundromats, shoe repair shops, mobile vending, landscape gardening, amusement parks and theaters, lumberyards and cemeteries.

DEPARTMENT — The Department of Public Works of Abington Township.**[Amended 1-8-2009 by Ord. No. 1973]**

HOME-BUSINESS ESTABLISHMENTS — Properties that have a commercial business and a residence at the same location, and the owner and operator of both the commercial business and the residence are the same.**[Added 1-11-1990 by Ord. No. 1668]**

INDUSTRIAL — Includes but is not limited to establishments producing and manufacturing or processing products either in a finished or partly finished condition, including fabrication and assembly.

MULTIRESIDENTIAL DWELLING UNIT — All multifamily residential dwelling units or apartment dwelling units exceeding four family units and all townhouse and condominium complexes exceeding four family units. These units shall be considered as a multiresidential dwelling units.**[Added 1-8-2009 by Ord. No. 1969]**

PERSON — Any individual, institution, public or private corporation, partnership or other entity.

PREMISES — Land, buildings or other structures, vehicle parking areas, storage areas or parts thereof upon or in which refuse is generated, stored or accumulated.

RECYCLABLE MATERIAL — Newspapers and clear, colorless glass bottles and containers.

REFUSE — Normal household refuse, including but not necessarily limited to rubbish, garbage, discarded furniture and ashes; it shall not include pathological products, human body waste, radioactive waste and other materials specifically disapproved for transfer station and landfill disposal by the Pennsylvania Department of Environmental Resources.**[Amended 9-13-1990 by Ord. No. 1683; 6-10-1993 by Ord. No. 1732]**

RESIDENTIAL DWELLING UNIT — All single-family dwelling units, multifamily or apartment dwellings not exceeding four family units and all townhouse and condominium complexes not exceeding four family units. Each unit shall be considered as an individual dwelling unit.**[Added 2-9-1989 by Ord. No. 1648; amended 2-8-1990 by Ord. No. 1675]**

RETAIL — Includes establishments for the display or sale of goods or commodities to the public, including but not limited to restaurants, eating and drinking establishments, food stores, variety stores and chain stores.

SCAVENGER — Any person other than the Township or a duly authorized agent collecting rubbish and trash placed at the collection point for Township collection.

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§ 92-2. Places to be served. [Amended 6-8-1989 by Ord. No. 1659]

A. The Department shall collect all refuse acceptable for collection from all single-family dwellings, all multifamily or apartment dwellings not exceeding four family units and all townhouse and condominium complexes not exceeding four family units, provided such waste is generated within the limits of the premises from which collected. The Department shall not provide refuse collection service for retail, commercial or industrial establishments, except as provided in Article V herein, or for multifamily or apartment dwellings, including townhouse and condominium complexes, exceeding four units.

B. All refuse acceptable for collection and generated within Abington Township from retail, commercial or industrial establishments, except as provided in Article V of this chapter, or for all multifamily residential dwelling units or apartment dwelling units exceeding four family units and all townhouse and condominium complexes exceeding four family units shall be collected and removed by a private hauler which shall be permitted by the Commonwealth of Pennsylvania. Waste shall be disposed of in accordance with the Solid Waste Management Act[1] and the Abington Township Municipal Waste Program. **[Added 1-8-2009 by Ord. No. 1969]**

§ 92-3. Responsibility of owner or occupant.

A. The owner, owner's agent or the occupant of any premises within the Township shall be responsible for the sanitary condition of the premises occupied by such person. It shall be unlawful for any person to place, deposit or allow to be placed or deposited on such person's premises any refuse except as designated by the terms of this article.

B. Any person responsible for refuse on premises not served by the refuse collection system of the Township or responsible for refuse not acceptable for collection by the Township shall make arrangements for the collection and disposal of such refuse with a refuse collector who holds a valid registration certificate issued by the Department.

§ 92-4. Collection of recyclable material.

The Department shall provide for the separate collection of recyclable material.

§ 92-5. Enforcement; right of entry.

The Department is authorized and directed to implement the provisions of this article and any regulations adopted hereunder. The Department or its agent or employee shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this article.

§ 92-6. Scavengers prohibited.

Scavengers are prohibited from operating within the Township.

§ 92-7. Rules and regulations.

In order to implement this article and to facilitate the collection of refuse provided hereunder, the Board of Commissioners is hereby authorized and directed to adopt such written rules and regulations as may be necessary. A certified copy of all such regulations as may be adopted shall be filed with the Township

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1. **Editor's Note: See 35 P.S. § 6018.101 et seq.**

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Secretary, and such regulations shall be made available for inspection by the public. Such regulations shall have the same force and effect as the provisions of this article, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this article, as hereinafter provided.

§ 92-8. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof by any District Justice, be sentenced to pay a fine of not less than $10 nor more than $300, together with the costs of prosecution. Each day a violation exists shall constitute a separate offense. In default of the payment of any fine, the defendant may be sentenced and committed to the Township lockup for a period not exceeding five days or the county jail for a period not exceeding 30 days.

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ARTICLE II
(Reserved)[2]

§ 92-9. through § 92-14. (Reserved)

2. **Editor's Note: Former Art. II, Collection From Commercial and Industrial Establishments, adopted 5-11-1972 by Ord. No. 1329, was repealed 1-8-2009 by Ord. No. 1973. See now Art. I in this chapter.**

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ARTICLE III
Dumping
[Adopted 4-9-1959 by Ord. No. 946]

§ 92-15. Dumping of garbage or rubbish prohibited.

It shall be unlawful for any person, firm or corporation or any agent thereof to place, throw or maintain in or near any public highway or other public place or on any lot or piece of ground within the Township of Abington, any liquid or solid vegetable or animal matter, any trash or rubbish or any other thing that will endanger the peace, comfort, safety or health of the public, or to contribute thereto by any act or failure to act.

§ 92-16. Maintenance of premises.

It shall likewise be unlawful to keep or suffer to remain on any premises within the Township of Abington any garbage, decayed or offensive or unwholesome matter of any kind or any trash or rubbish.

§ 92-17. Violations and penalties.

For each and every violation of the provisions of this article, the person violating the same shall be liable, upon conviction thereof, to a fine not exceeding $50, to be collected as fines and penalties are collectible by law. A new and separate offense shall be deemed to have been committed for each day that said violation exists. In default of payment of any fine or penalty imposed hereunder, said violator shall undergo imprisonment for not more than five days.

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ARTICLE IV
Residential Refuse Fees
[Adopted 2-9-1989 by Ord. No. 1648]

§ 92-18. Payment of fee; collection. [Amended 2-8-1990 by Ord. No. 1675; 1-8-2004 by Ord. No. 1908; 8-14-2008 by Ord. No. 1964[3]]

A. The owner of each individual residential dwelling unit shall pay a fee to the Township of Abington for the collection, removal and disposal of garbage, rubbish and refuse. As of the effective date of this section, the fee shall be calculated as follows:

(1) A residential unit using a ninety-five-gallon trash container supplied by the Township shall pay a fee of $251 per year. **[Amended 12-17-2009 by Res. No. 09-046]**

(2) A residential unit using a sixty-five-gallon trash container supplied by the Township shall pay a fee of $224 per year. **[Amended 12-17-2009 by Res. No. 09-046]**

(3) A residential unit using a thirty-five-gallon trash container supplied by the Township shall pay a fee of $196 per year. **[Amended 12-17-2009 by Res. No. 09-046]**

(4) Fees for excess trash.

(a) The owner of a residential unit may request an additional container from the Township and shall pay an additional annual fee of $82 for a ninety-five-gallon trash container, $55 for a sixty-five-gallon trash container, and $28 for a thirty-five-gallon trash container. These fees shall be in addition to the fees established under § 92-18A(1) through (3), as may from time to time be amended.

(b) The Township may sell either a designated trash bag displaying the Township logo to dispose trash the resident may generate in excess of that which can be accommodated by the trash container provided by the Township or a sticker that shall be affixed to a bag of the owner's choice. The cost to the resident shall be $0.50 per bag, which includes the sales tax, and the Township's cost of each sticker plus $0.30.

B. The fees provided for in this section may from time to time be amended by resolution of the Board of Commissioners of Abington Township.

§ 92-19. Payment due date; delinquent payment procedures and fee schedule for delinquent collections. [Amended 8-11-1994 by Ord. No. 1743; 4-9-1998 by Ord. No. 1813]

A. Each current year refuse collection fee bill shall be due and payable on the date as set forth on the Township and county real estate tax bill. Refuse collection fee bills shall not be eligible for any discount.

B. If any current year refuse collection fee bill is not paid on or before the 120th day following the real estate tax billing date, such refuse collection fee shall be subject to a penalty in the amount of 10% of the face amount of the sewer fee.

C. If any refuse fee bill remains unpaid as of the last day of the current calendar year, a Township official, as may be designated by the Board of Commissioners, shall file a municipal lien against the

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3. Editor's Note: This ordinance also provided that the provisions of § 92-18A(4)(b) relating to fees for excess trash shall take effect immediately and the remainder of its provisions shall be effective 1-1-2009.

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affected property, said lien to include the cost of filing plus a fee for administrative costs, the amount of such fee to be determined from time to time as set forth by resolution of the Board of Commissioners.

D. Following the filing of the lien pursuant to Subsection C above, the Township may collect the outstanding refuse collection fee bill, including penalty, interest and costs, by any means provided by law, including but not limited to filing a civil suit before the appropriate District Justice or in the Montgomery County Court of Common Pleas and/or by discontinuing refuse collection service and/or by filing a Writ of Scire Facias in the Montgomery County Court of Common Pleas or by the use of an outside collection service.

E. Fees. **[Amended 9-8-2022 by Ord. No. 2198]**

(1) The Board of Township Commissioners does hereby approve the following schedule of attorney fees for services in connection with the collection of delinquent user fees. Said fees are hereby determined to be fair and reasonable compensation for the services as set forth below and are in accordance with the principles set forth in § 7106 of the Municipal Claims and Tax Liens Act, 53 P.S. § 7101 et seq., as amended. The attorney fees and collection fees set forth below shall be included and added to the applicable MCTLA unpaid claim in an amount equal to the amount set forth in this section.

Legal Services	Fee for Services
Attorney Fees	
Initial review and sending first legal demand letter	$175
File lien and prepare satisfaction	$250
Prepare writ of scire facias	$250
Prepare and mail letter under Pa.R.C.P. 237.1	$50
Prepare default judgment	$175
Research, prepare and obtain reissued writ	$175
Prepare praecipe to amend	$100
Prepare motion to amend	$150
Prepare motion for alternate service	$250
Prepare motion to consolidate claims	$250
Amend claim to add United States as defendant	$250
Prepare writ of execution	$800
Preparation for Sheriff's sale; review schedule of distribution and resolve distribution issues	$400
Prepare motion to continue Sheriff's Sale	$50
Prepare petition for free and clear sale	$400
Preparation and service of subpoena	$100
Presentation of motion or petition	$50

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Legal Services	Fee for Services
Services not covered above	$75 to $275 per hour
Collection Fees	
Validation notice	$25 per notice charged to the property owner
Notice of delinquent claim and fee shifting	$40 per notice, plus applicable postage charged to the property owner
Bookkeeping fee for payment plan of three months or less	$25
Bookkeeping fee for payment plan of more than three months	$50
Handling fee for returned check	$25

(2) Additional fees and expenses. In addition to the collection fees set forth under Collection Fees, above, the amount of out-of-pocket charges, costs, expenses, commissions and fees incurred in connection with the filing, preservation and collection of the MCTLA unpaid claims, including, but not limited to, prothonotary fees and charges, sheriff fees and charges, postage expenses, title search expenses, vehicle identification number (VIN) search expenses, skip tracing and/or other investigatory service expenses, and the costs, fees, charges and/or expenses arising out of any payment by any credit card, debit card or any other payment medium, are hereby approved and shall be included, upon incurrence, together with the applicable MCTLA unpaid claim.

(3) Interest. Interest will be assessed upon the unpaid claims at a rate of 10% per annum and added to the unpaid claims. The Township is permitted to waive any interest on any unpaid claim when the Township or any attorney and/or third-party collector collecting the unpaid claim believes, in its discretion, that such amount is de minimis or that the cost or burden of continuing collection outweighs the benefit of collecting the interest.

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ARTICLE V
Fee for Collection from Commercial and Institutional Establishments
[Adopted 6-8-1989 by Ord. No. 1659]

§ 92-20. Declaration.

In order to provide for the protection of the health and welfare of the public and to further protect such public from any unsafe or unsanitary collection, removal and disposal of garbage, refuse acceptable for collection from commercial and institutional establishment within the Township of Abington generating less than two tons of garbage, rubbish and refuse a year in accordance with the provisions set forth herein.

§ 92-21. Places to be served.

The Department shall collect all refuse acceptable for collection from commercial and institutional establishments generating less than two tons of refuse a year.

§ 92-22. Exceptions.

A. A commercial or institutional establishment may choose not to accept the services of the Department and to be responsible for collection and disposal of its own refuse, provided that such establishment shall submit written documentation to the Department that its refuse is presently being collected and disposed of by a commercial hauler authorized to collect refuse in the Township of Abington as provided in Article II, § 92-11, herein.

B. Any home business that currently operates in Abington Township, utilizes the Township's trash service and pays the commercial trash fee will not be obligated to pay the residential trash fee. **[Added 1-11-1990 by Ord. No. 1668]**

§ 92-23. Fee.

A. Each commercial and institutional establishment generating less than two tons of refuse a year shall pay a fee to the Township of Abington for the collection, removal and disposal of garbage, rubbish and refuse; such fee shall be set at a rate established by the Board of Commissioners in a resolution.

B. All refuse fee bills shall be mailed to the owner of record of the premises and the owner of the commercial or institutional establishment, and the refuse fee will be collected by the Township Treasurer from the owner of the commercial or institutional establishment. The Township Treasurer will be compensated for said collection as set in resolution by the Board of Commissioners.

C. Each refuse bill fee shall be due and payable on the first day of the first month of each quarter, namely January, April, July and October. If said bill is not paid on or before the 10th day of the first month of the quarter, a penalty of 0.8% per month shall be imposed. Said penalty shall be for the full month with no allowances for any fractional part of a month. Fees which remain due and outstanding at the end of the calendar year may be collected by the Township of Abington as provided by law for the recovery of municipal claims.

§ 92-24. Violations and penalties.

For each and every violation of this article the owner of record of the premises where the violation exists and the owner of the commercial or institutional establishment shall be liable in an enforcement proceeding before the District Justice for a civil judgment, including court costs.

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ARTICLE VI
Solid Waste Disposal
[Adopted 5-11-1989 by Ord. No. 1654]

§ 92-25. Definitions.

A. The following terms shall have the following meanings in this article:

ACCEPTABLE WASTE — Municipal waste which is collected from the general public, or is otherwise consistent with Section 7701(e)(3)(B) of the Internal Revenue Code of 1986, as amended, which is not unacceptable waste.

COMPANY — Dravo Energy Resources of Montgomery County, Inc.

CONTRACTOR — Dravo Operations of Montgomery County, Inc.

COUNTY — County of Montgomery, Pennsylvania.

COUNTY ORDINANCE — An ordinance enacted by the county creating the county system, providing for the licensure of various persons, regulating waste flow and setting forth certain related provisions.

COUNTY SYSTEM OR SYSTEM — The county solid waste management and disposal system created by the county and every aspect thereof, including but not limited to equipment, transfer and resource recovery facilities, residue disposal sites, contractual arrangements or other rights, owned, acquired, leased, placed under contract, constructed or assumed, operated or to be owned, acquired, leased, placed under contract, constructed, operated or assumed by the county or any agent, designee or contractor in connection with the plan.

DATE OF COUNTY SYSTEM OPERATION — That date on which the county system shall be declared by the county to be ready to commence the disposal of acceptable waste on a sustained basis.

EXISTING CONTRACT — Any agreement or contract fully executed prior to the effective date of this article for the collection, disposal or transportation of municipal waste generated within this municipality.

FACILITY — The mass burn resource recovery and electric generating facility, together with appurtenant structures and equipment, to be constructed on a site in Plymouth Township, Montgomery County, as contemplated by the facility agreement.

FACILITY AGREEMENT — The amended and restated facility agreement among the company, contractor and the Montgomery County Industrial Development Authority, as such may be further amended from time to time.

MUNICIPAL COMMITMENT — The obligation of each participating municipality to deliver or cause to be delivered to the county system all of the residential component of its municipally generated acceptable waste, and such other acceptable waste as the participating municipality and the county may hereafter agree to include in such municipal commitment.

MUNICIPALITY — The Township of Abington (a Township of the first class) located within the County of Montgomery, Commonwealth of Pennsylvania.

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

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101 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.

MUNICIPAL WASTE AUTHORITY — The Waste System Authority of Montgomery County created by the county for purposes relating to municipal waste processing and disposal and/or the IMA and the County Waste Flow Ordinance.

NONPROCESSIBLE WASTE — That portion of acceptable waste which consists of white goods, automobile tires in quantity or noncombustible items, stumps, logs, brush and other waste which either weighs in excess of 25 pounds or exceeds one of the following dimensions: four feet in length, four inches in diameter or four inches in thickness.

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 provisions of this article prescribing a fine, penalty, imprisonment or denial or grant of any license, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

PLAN — The county-wide municipal waste management plan developed by the county and approved by the Department of Environmental Resources, as such may hereafter be amended or modified in compliance with law.

POINT OF ENTRY INTO THE COUNTY SYSTEM — Any delivery point within the county system designated by the county for delivery of municipal waste.

PROCESSIBLE WASTE — That portion of acceptable waste which is not nonprocessible waste.

RECYCLING OR RECYCLED — The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed 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 a fuel for the operation of energy.

RESIDENTIAL COMPONENT — All acceptable waste generated by households within a participating municipality, exclusive of multiple family dwellings which are not included in the calculation of the residential component pursuant to regulations of the county.

SERVICE AGREEMENT — The amended and restated municipal solid waste disposal service agreement by and between the county and Dravo Operations of Montgomery County, Inc., or any successor thereto, as such may be further amended from time to time.

SOURCE SEPARATION — The segregation and collection, prior to the point of entry into the county system, for the purpose of recycling of individual components of acceptable waste, such as, without limitation, bottles, cans and other materials in accordance with Act 101.

UNACCEPTABLE WASTE —

(1) Explosives, pathological and biological waste, residual waste and hazardous waste, radioactive materials, sludges, cesspool or other human waste, human and animal remains, motor vehicles, liquid waste, contained gaseous materials which may pose a hazard to the facility or the community, hazardous substances, as defined in the Federal Comprehensive Environmental Response, Compensation and Liability Act, as it may be amended from time to time hereafter, and any analogous federal, state or local law, ordinance, rule or regulation as may be applicable at the time of delivery of waste to the facility and

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commercial waste which is not permitted by law to be treated and disposed of in the facility;

(2) Any item of waste either smoldering or on fire;

(3) Construction and demolition debris, ashes, incinerator residue and foundry sand;

(4) Wastes in quantities and concentrations which require special handling in their collection and/or processing, including medical or other red bag waste; and

(5) All other items of waste which, at the time of delivery to the facility, would be likely to pose a threat to health or safety or have been prohibited by any valid and enforceable judicial decision, order or governmental action from being accepted by the facility.

WHITE GOODS — Refrigerators, washing machines, dryers, window air conditioners, hot-water heaters and other major home appliances.

B. All other capitalized words and phrases shall have the same meanings as set forth in Act 97 or Act 101, as they may hereinafter be amended or supplemented by legislation regarding municipal waste management or planning, or as set forth in the IMA, facility agreement or service agreement. To the extent that any definition herein varies from the definition in the IMA, the definition in the IMA shall control.

§ 92-26. Licensing and collection regulations.

A. Licensing. No person who is not duly licensed or deemed to be licensed by the county may collect or transport municipal waste located or generated within the municipality. This waste collection or transportation license shall be a county license issued by the county or the Municipal Waste Authority. The municipality shall administer such license upon request of the county or the Municipal Waste Authority.

B. Compliance with rules, regulations and ordinances. In carrying on activities related to solid waste collection or transportation within this municipality, all municipal waste collectors and all municipal waste transporters shall comply with the county ordinance, this article and the other municipal waste flow ordinances and all rules and regulations pertaining to the collection, transportation and disposal of solid waste as may be hereafter promulgated by the municipality, or by the Municipal Waste Authority or the county. Delivery by such collectors or transporters to the county system of unacceptable waste, nonprocessible waste (except for white goods) and waste from unapproved sources is prohibited.

C. Administration. Licenses hereunder shall be issued and revoked by the county or the Municipal Waste Authority, and administered by them or, at their request, by the municipality. Any collectors or transporters who fail to comply with the provisions of this article shall be subject to any applicable sanctions in addition to the revocation of their licenses.

§ 92-27. Disposal and recycling.

A. Delivery to county system. Except as provided in Subsections B and C below, all acceptable waste generated within this municipality shall be delivered to the county system, and all acceptable waste collectors and transporters shall deliver to and dispose of all acceptable waste collected or generated within the municipality to solid waste facilities designated in the plan at one or more points of entry into the county system as designated from time to time by the county or the Municipal Waste Authority.

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B. Disposal at other sites. Disposal of municipal waste collected or generated within the municipality may occur at other sites only as permitted by rule, regulation, ordinance or order duly issued by the county or Municipal Waste Authority or by the written agreement of the county or Municipal Waste Authority and the municipality.

C. Recycling. Nothing herein shall be deemed to prohibit source separation or recycling or to affect any sites at which source separation or recycling may take place.

§ 92-28. Scope of regulations; enforcement.

A. Compliance with county regulations. The collection, transportation and disposal of municipal waste present or generated within the municipality shall be subject to such further reasonable rules and regulations as may from time to time be promulgated by the county, including any amendments to the County Waste Flow Ordinance and to such reasonable rules and regulations as may be adopted by the county or the Municipal Waste Authority, including, without limitation, regulations relating to the operation, management and administration of the county system, applications and standards for licensing, requirements for payment bonds or other payment security, including but not limited to meeting liability insurance requirements, fees to be charged for such licensing, the terms of licenses, procedures, record keeping, transportation routes, payment for services, billing for shortfalls, sanctions for nonpayment and other matters. To the extent that a municipality is engaged in the administration of any licenses pursuant to written agreement with the county as required in Section 303(d) of Act 101 and as provided in the County Waste Flow Ordinance, it shall do so in accordance with the foregoing rules and regulations, and in any event, at the direction of the county.

B. Adoption of regulations. Rules and regulations adopted by the county or Municipal Waste Authority, for the county system shall be deemed rules and regulations adopted under this article. Each of the municipalities shall abide by such rules and regulations and will not adopt any rules and regulations to the contrary.

C. Consistency of regulations with Article and other laws. No rules or regulations adopted by the municipality pursuant to this article shall be in violation of, inconsistent with or less stringent than the provisions of this article, the other municipal waste flow ordinances, the County Waste Flow Ordinance, the plan, the provisions and purposes of Act 97, Act 101 or regulations adopted thereunder, or such other laws, regulations or requirements as may be enacted by the United States of America, the Commonwealth of Pennsylvania, the Pennsylvania Department of Environmental Resources or the Pennsylvania Environmental Quality Board governing municipal waste planning, collection, storage, transportation, processing or disposal.

D. Enforcement of waste flow control. Enforcement of waste flow control and the terms of and any duties established pursuant to the County Waste Flow Ordinance, the other Municipal Waste Flow Ordinances and this article will be the responsibility of the county or the Municipal Waste Authority or the municipalities at the direction of the county or the Municipal Waste Authority.

§ 92-29. Annual survey.

A. An annual survey of all generators of municipal waste and of all municipal waste collectors and municipal waste transporters, any landfill operators, any transfer station operators or any other parties involved in the collection, transportation, processing or disposal of municipal waste of the municipality, shall be conducted by an engineering consultant designated by the county or the Municipal Waste Authority. Such engineering consultant shall estimate based on such survey the amount of each type of municipal waste of the municipality expected to be generated in the following

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year, after recycling, in total and in each of the following categories:

(1) Municipally collected.

(2) Municipally contracted.

(3) Municipal waste disposal arranged for by residents.

(4) Municipal waste disposal arranged for by apartment houses, condominium associations and other multiresident dwellings.

(5) Municipal waste disposal arranged for by commercial establishments.

(6) Other.

B. All persons which are the subject of this survey are required to cooperate in the taking and preparation of the survey.

C. In connection with the annual survey, pursuant to the IMA, at the beginning of the first operating year and at least 150 days prior to the beginning of each subsequent operating year, the county and the municipality shall jointly specify the size of the projection of the municipality's municipal commitment for such operating year, which projection shall be equal to the amount of the municipality's residential component (as reasonably determined by an engineer retained by the county or Municipal Waste Authority for this purpose, after taking into account any and all information provided by the municipality) plus any other amounts agreed upon by the county and the municipality. This projection will be net of any waste removed as a result of source separation. This projection shall be further stated in 12 monthly projections, the sum of which shall be equal to the operating year projection. This projection shall be adjusted by the county from time to time following consultation with the municipality, as and when the county determines that such projection was incorrect, and from year to year in accordance with the experience of the previous year and the volume anticipated in the coming year.

D. At the time that the county and municipality make the foregoing projection, the municipality shall assist the county in projecting the total amount of acceptable waste expected to be generated within the municipality during the forthcoming operating year.

E. Based upon the foregoing projections, the county shall make projections of total tonnage and projections of monthly tonnage as required pursuant to any applicable disposal agreements, including the service agreement with respect to the facility. The county shall use its best efforts to maximize the tonnage delivered to the facility up to the maximum capacity of the facility.

§ 92-30. Operations restrictions.

A. The municipality shall not construct, enlarge, operate or contract for or renew any contract for any facility or hauling to any facility, other than a facility designated by the county pursuant to the IMA or regulations promulgated pursuant to the IMA, for, or enter into or renew any contract for, the treatment, processing and/or disposal of municipally generated acceptable waste except as shall conform to the county ordinance and this article as the county may expressly agree to in writing. In addition, the municipality shall take all such action as may be necessary to ensure that all of its obligations will be met once the county system is operational. The municipality shall agree to use its best efforts to assign its rights under any contract concerning the use of any disposal facilities or transfer stations to which it was a party, to the county on the effective date of the IMA. Any such assigned contract shall become part of the county system; provided, however, that with respect to any

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such contracts for which assignment is not possible, each participating municipality shall act at the direction of the county with respect to such contract and such contract shall be deemed to be part of the county system.

B. No person shall enter into any contract or conduct any other activity concerning the collection, transportation, processing or disposal of municipal waste in the municipality in contravention of the terms of the County Waste Flow Ordinance, this article or any rules and regulations issued thereunder.

C. Recycling. Nothing contained in this article shall interfere with the operation of any program for recycling.

D. This Article shall be construed consistently with Act 97 and Act 101.

§ 92-31. Municipal Waste Authority.

The county will create a Municipal Waste Authority to administer the terms of the County Waste Flow Ordinance and to operate the county system. This Authority shall be recognized as having the power to act in place of the county, to the extent determined by the county.

§ 92-32. Unlawful conduct.

A. Unlawful conduct. It shall be unlawful for any person to:

(1) Violate, cause or assist in the violation of any provision of this article, any rule, regulation or order promulgated hereunder, or any rule, regulation or order promulgated by the county or the Municipal Waste Authority consistent with this article.

(2) Transport, process, treat, transfer or dispose of or cause to be processed, treated, transferred or disposed municipal waste generated within the municipality except as provided for in this article.

(3) Collect or transport municipal waste present or generated within the municipality without a valid license for collection or transportation issued by the county or the Municipal Waste Authority.

(4) Hinder, obstruct, prevent or interfere with the municipality, the Municipal Waste Authority or the county or their personnel in the performance of any duty under this article or in the enforcement of this article.

(5) Act in a manner that is contrary to Act 97 or Act 101, regulations promulgated thereunder, the plan, this article, the county ordinance, rules or regulations promulgated under this article, the county ordinance or the terms of licenses issued thereunder.

B. Public nuisance. Any unlawful conduct set forth in Subsection A hereof shall constitute a public nuisance.

§ 92-33. Violations and penalties.

Any person who engages in unlawful conduct as defined in this article shall, upon conviction thereof, in a summary proceeding before a District Justice, be sentenced to pay a fine of not more than $1,000 and not less than $500 and, in default of payment thereof, shall be committed to the county jail for a period not exceeding 30 days. Each day that there is a violation of this article shall constitute a separate offense.

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§ 92-34. Revocation of license.

Upon finding that any person has engaged in unlawful conduct as defined in this article, the Municipal Waste Authority or the county may revoke any license issued to that person in accordance with § 92-26 of this article and the Municipal Waste Authority or the county may deny any subsequent application by that person for a license pursuant to § 92-26 hereof.

§ 92-35. Injunctions; concurrent remedies.

A. Restraining violations. In addition to any other remedy provided in this article, the municipality or the county may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this article for an injunction to restrain a violation of this article or rules, regulations, orders or the terms of licenses promulgated or issued pursuant to this article. In addition to an injunction, the court may impose penalties as authorized by § 92-33 hereof.

B. Concurrent remedies. The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the municipality or the county from exercising any other remedy provided by this article or otherwise provided at law or equity.

§ 92-36. Intermunicipal agreement.

A. Entry into IMA. In order to implement the intent and terms of this article, the municipality, pursuant to the authority of the Intergovernmental Cooperation Act, Act of July 12, 1972, No. 180, codified at Pa. Stat. Ann. tit. 53, §§ 481 to 490 (Purdon 1974 and Purdon Supp. 1988) and Article IX, Section 5 of the Constitution of the Commonwealth of Pennsylvania, has determined to enter into the IMA between the municipality, the county and other municipalities within Solid Waste Districts Nos. One and Two of the county, together with such changes consistent with this article, if any, as may be approved by the officials of the parties executing the same, such execution to be conclusive evidence of such approval.

B. Terms and implementation of IMA. As more fully set forth in the IMA and this article:

(1) Conditions and terms of IMA. In the IMA:

(a) The county or the Municipal Waste Authority agrees to arrange through the county system for the provision of municipal waste disposal facilities for the economical and environmentally sound disposal of acceptable waste generated within the participating municipalities, and in the course thereof, to arrange for the construction of a privately owned one-thousand-two-hundred-ton-per-day facility for the processing or other disposition of acceptable waste generated within the several jurisdictions of the participating municipalities.

(b) The participating municipalities state that they have enacted a Municipal Waste Flow Ordinance in a form substantially similar to this article and assure that the residential component of their acceptable waste will be delivered to the county system.

(c) The county or the Municipal Waste Authority agrees to enact or cause to be enacted rules and regulations and to enforce or cause to be enforced this article and the County Waste Flow Ordinance and the parallel municipal waste flow ordinances.

(d) The parties agree to cooperate in the joint enforcement of the IMA and all ordinances enacted pursuant to the IMA and the participating municipalities thereby agree

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cooperatively to exercise, to delegate to the county or the Municipal Waste Authority and to allow delegation of such powers, duties and responsibilities as set forth in the IMA.

(2) Duration of term of the IMA. The term of the IMA shall commence on the closing date for the financing of the facility and shall terminate on the earlier of the 30th anniversary of such date or at the end of the operating year in which all bonds and any other indebtedness outstanding issued in connection with the bonds or owed to any assignee has been paid in full.

(3) Purpose and objectives of IMA. The purpose of the IMA is to provide a mechanism to finance, to construct and to operate the county system to serve the municipalities within the county, and to provide continuing municipal waste planning, as more fully set forth in the recitals to the IMA and this article.

(4) Manner and extent of financing the IMA. During the term of the IMA, participating municipalities and other persons using the county system shall pay to the county on a monthly basis the then current per ton municipal tipping fee plus any other charges payable, as specified by the county and then in effect, for all tonnage delivered or caused to be delivered to the county system, in accordance with Article III of the IMA.

C. Execution. Appropriate officers of this municipality are authorized and directed to execute the IMA on behalf of this municipality.

D. Findings under Intergovernmental Cooperation Act. As required by the Intergovernmental Cooperation Act of July 12, 1972, PL. 762, No. 180, as amended, the following matters are specifically found and determined:

(1) The conditions of agreement are set forth in the IMA;

(2) The duration of the term of the agreement is set forth in Section 901 of the IMA;

(3) The purpose of the IMA is to cooperate with the county or Municipal Waste Authority and other participating municipalities in implementing the plan;

(4) The agreement will be financed through the budgeting and appropriation of funds by the municipality as necessary to meet the municipality's obligations;

(5) The organizational structure necessary to implement the agreement is set forth in the IMA with which the current officers of the municipality shall cooperate;

(6) The manner in which property, real or personal, shall be acquired, managed, licensed or disposed of is by way of lease or other contract otherwise as set forth in the IMA; and

(7) The agreement contemplates cooperation with the county or Municipal Waste Authority, which entities are empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for its employees.

§ 92-37. Construal of provisions.

The terms and provisions of this article are to be liberally construed, so as best to achieve and to effectuate the goals and purposes hereof. This Article shall be construed in pari materia with Act 97 and Act 101.

§ 92-38. Compliance with IMA.

The municipality will take such actions as are necessary to comply with the terms of the IMA and to fulfill

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its obligations thereunder.

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ARTICLE VII

Separation, Storage and Collection of Recyclable Materials[4]

[Adopted 9-13-1990 by Ord. No. 1683; amended in its entirety 8-14-2008 by Ord. No. 1964[5]]

§ 92-39. Program established.

There is hereby established a program requiring the separation, storage and collection of certain recyclable materials.

§ 92-40. Definitions.

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

ALUMINUM CANS — Containers constructed solely of aluminum.

CLEAR GLASS — Products made from silica or sand, soda ash and limestone. The products must be transparent (clear), having no color, and may be used as containers for packaging or bottling, but shall not include mirrors, plate glass, light bulbs or headlights.

COLORED GLASS — Products made from silica or sand, soda ash and limestone. The products must have a color of green or brown and may be used as containers for packaging or bottling.

LEAF WASTE — Leaves from trees and shrubbery.

MUNICIPAL WASTE — Any garbage, refuse, industrial lunchroom or office waste, and other material including solid, liquid, semisolid or contained gaseous materials resulting from the operation of residential, commercial, retail or institutional establishments and from community activities. This term does not include recyclable materials.

PAPER/JUNK MAIL — Newsprint, magazines, catalogues, envelopes, letters, construction paper, color inserts, school paper, office paper, nonmetallic wrapping paper, real estate books, textbooks (with or without hard covers) and cardboard.

PERSON — Any individual, partnership, corporation, firm, association, institution or cooperative enterprise.

PLASTIC CONTAINERS — No. 1, polyethylene teraphthalate (PET), and No. 2, high-density polyethylene (HDPE).

RECYCLABLE MATERIALS — Glass, aluminum, tin and bimetal cans, paper/junk mail, No. 1 and No. 2 plastics, leaf waste, yard waste, and other materials that may be designated by the Township.

RECYCLING — The collection, separation, recovery and sale or reuse of recyclable materials which would otherwise be disposed or processed as municipal waste, or the mechanized separation and treatment of municipal waste (other than through combustion) and the creation and recovery of reusable materials other than a fuel for the operation of energy.

RESIDENCE — Any single-family, attached or detached, dwelling or multiple dwellings having no more than four units from which the Township collects municipal waste.

TIN AND BIMETAL CANS — Containers made from tin or a combination of tin and metal and may be used as a container for packaging.

TOWNSHIP — The Township of Abington, Montgomery County, Pennsylvania.

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4. Editor's Note: For additional provisions regarding recycling, see Ch. 127.

5. Editor's Note: This ordinance also provided an effective date of 1-1-2009 for the provisions in this article.

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YARD WASTE — Tree clippings, bush clippings, grass clippings, flowers and plants, tree branches, yard debris, but not to include dirt and stones.

§ 92-41. Residential separation and preparation requirements.

Any person who owns or occupies a residence in the Township shall keep separate from municipal waste the following recyclable materials:

A. Aluminum cans. Cans shall be empty, free of food waste and placed in a designated recycling container issued by the Township.

B. Tin and bimetal cans. Cans shall be free of food waste and placed in a designated recycling container issued by the Township.

C. Clear and colored glass. Glass shall be clean, free of food waste and lids and placed in a designated recycling container issued by the Township.

D. Plastics, No. 1 and No. 2 — Plastics shall be clean, free of food waste and placed in a designated recycling container issued by the Township.

E. Paper/junk mail. Paper/junk mail shall be placed in a designated recycling container issued by the Township.

F. Leaf waste. Leaf waste shall be stored on the premises of the residence until the Township schedules a leaf waste collection. This subsection shall not prevent the composting of leaf waste on said premises for personal use.

G. Yard waste. Yard waste shall be put in brown biodegradable bags approved by the Township or tied and bundled. Maximum lengths not to exceed four feet and maximum three inches in diameter.

§ 92-42. Collection from residence.

On the day or days designated by the Township, any person who owns or occupies a residence in the Township shall place recyclable materials for collection in the following manner:

A. Aluminum and/or tin and/or bimetal cans, clear and/or colored glass, plastics No. 1 and/or No. 2 shall be placed in recycling containers issued by the Township and placed at the curbside or street side of the residence or at the residence's authorized municipal waste collection point.

B. Paper/junk mail. Paper/junk mail shall be placed in containers issued by the Township and placed at the curbside or streetside of the residence or at the residence's authorized municipal waste collection point.

C. Leaf waste. Leaf waste shall be placed in the brown biodegradable yard bags designated by the Township and placed behind the curb and, where no curbs exist, at the edge of the street. The brown biodegradable bags will be sold by or for the Township at designated places. The cost of the bags will be set by resolution of the Board of Commissioners.

D. Yard waste, tree and bush clippings. Yard waste, tree and bush clippings shall be in brown biodegradable yard bags designated by the Township or tied and bundled and placed at the curbside or streetside of the residence or residence's authorized municipal waste collection point.

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§ 92-43. Unauthorized collection.

It shall be unlawful for any person, except for the employees of the Township engaged in the performance of their duties on behalf of the Township, to collect recyclable materials under this article unless such person has first obtained written permission from the Township.

§ 92-44. Multifamily, commercial, retail and institutional requirements. [Amended 5-12-2011 by Ord. No. 2012]

A. Private collection. Collection by persons owning or occupying multifamily dwellings having more than four units and commercial, retail and institutional establishments within the Township shall be responsible for implementing their own separation, storage and collection of recyclable materials. Such persons shall use the services of a private hauler who shall be permitted by the Commonwealth of Pennsylvania. Such persons shall have a recycling program which is consistent with the requirements of Act 101 of 1988, the Municipal Waste Planning, Recycling and Waste Reduction Act.[6] Such persons shall provide annually to the Township written documentation of the items recycled and the total number of tons or fractions of tons recycled. Such annual documentation shall cover the calendar year and shall be provided to the Township within three months after the end of the calendar year, but in no event later than April.

B. Township collection.

(1) Persons owning or occupying multifamily dwellings having more than four units and commercial, retail and institutional establishments within the Township may elect to have the Township of Abington collect their recyclable materials. The fee for this service by Abington Township shall be set by resolution.

(2) Persons electing to have recyclables collected by the Township shall provide suitable containers for sorting and collection, easy accessible locations for such activity and written instructions for implementing the recycling program. Upon request by the Township, multifamily dwellings and commercial, retail and institutional establishments shall be required to demonstrate their implemented recycling programs.

(3) These establishments must provide for the separation and collection of recyclable materials to include the following:

(a) Multifamily residential recycling. Multifamily dwellings having four or more units shall be required to separate from municipal waste and provide for collection of the following items:

[1] Leaf waste.

[2] Aluminum or bimetal cans, clear and colored glass, plastics Nos. 1 and 2, paper and junk mail.

(b) Commercial, retail and institutional recycling. Commercial, retail and institutional establishments shall be required to separate from municipal waste and provide for collection of the following items:

[1] Aluminum cans.

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6. **Editor's Note: See 53 P.S. § 4000.101.**

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[2] Bimetal cans.

[3] Clear and colored glass.

[4] Paper/junk mail.

[5] Corrugated paper.

[6] Plastics Nos. 1 and 2.

[7] Leaf waste.

§ 92-45. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof by any District Justice, be sentenced to pay a fine of not less than $10 nor more than $300, together with the court costs. Each day that a violation continues shall constitute a separate offense, punishable by a like fine.

§ 92-46. Board to adopt rules and regulations.

The Board of Commissioners may, from time to time, adopt by resolution such rules and regulations as may be necessary to carry out the operation of this recycling program.

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Chapter 108

NUISANCES

ARTICLE I
General Nuisances

§ 108-1. Prohibited acts.
§ 108-2. Violations and penalties.

ARTICLE II
Health Nuisances

§ 108-3. Liability.
§ 108-4. Definitions.
§ 108-5. Refuse.
§ 108-6. Insects.
§ 108-7. Water supply.
§ 108-8. Drainage.
§ 108-9. Disposition of rubbish.
§ 108-10. Cases and carts.
§ 108-11. Exposure of foods for sale.
§ 108-12. Weeds; bamboo.
§ 108-13. Violations and penalties.

[HISTORY: Adopted by the Board of Commissioners of the Township of Abington as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Burning — See Ch. 85.

Garbage, rubbish and refuse — See Ch. 92.

Loitering — See Ch. 104.

Noise — See Ch. 106.

Abandoned refrigerators — See Ch. 128.

Sound equipment — See Ch. 140.

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ARTICLE I
General Nuisances
[Adopted 2-11-1954 by Ord. No. 742]

§ 108-1. Prohibited acts.

It shall be unlawful for any person, firm or corporation, either directly or indirectly or by its agents, to do, authorize, aid or abet any of the following-described acts, the prohibition of which is intended to promote the general safety, health, comfort and convenience of the township:

A. To injure or destroy any property, owned either by the township or by other persons, in or along any public highway or place in the township.

B. To start or cause or permit to be started any bonfire or fire for the purpose of burning any paper, debris, rubbish, straw, shavings or leaves or any other substances within the limits of any public street in the township.

C. To cast any paper boxes or store wastes, earth, brick, stone, coal, wood, ashes, lime, shavings, rubbish or any substance of any kind, except for the purpose of immediate loading or removing, on any public highway or sidewalk within the township.

D. To drive any wagon, cart, automobile or other vehicles, or to ride any bicycle or motorcycle, or to coast or sled-ride upon any sidewalk within the township, provided that this subsection shall not be construed to prohibit the use of entrances from the public highway to private property.

E. To throw, drop or place, or cause to be thrown, dropped or placed, upon any of the public highways, sidewalks or public places within the township, or upon any porch, step or yard of any house or store along any of the public highways within the township, any posters, circulars, bills, handbills or other advertising matter of any kind or description whatever.

F. To throw, drop or place, or cause to be thrown, dropped or placed, upon any of the highways, sidewalks or other public places within the township, any paper, paper boxes or literature of like kind or nature, or waste matter of any kind whatsoever.

G. To nail, tack, hang or otherwise append any sign, notice or advertisement of any kind whatsoever on any tree, post or pole of any description within the township, except on private property and then only by permission of the owner.

H. To drive or cause to be driven any cart or wagon or motor vehicle containing garbage, earth, rubbish or any materials of like character through any public highway in the township unless such cart, wagon or motor vehicle has a good and sufficient tailboard and body sufficiently tight and closed at the sides and bottom to prevent the contents from dropping off the vehicle and a cover to eliminate odors or prevent contents from blowing off the vehicle.

I. To ride horseback upon sidewalks or sidewalk areas, school ground or recreation areas, or to gallop, canter or trot a horse upon streets in built-up areas, but walking a horse only upon streets in the built-up areas shall be permitted.

J. To harbor a dog or dogs which continually bark.

K. To blow horns of motor vehicles where such hornblowing is unnecessary and only serves to annoy residents.

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L. To use the public streets as a proving ground, amusement thoroughfare or other objectionable practices by operators of motor vehicles.

M. To permit the growing and accumulation of grass, weeds, plants and shrubbery in any sidewalk area.

N. Fireworks. **[Added 6-8-1995 by Ord. No. 1750]**

(1) To sell or dispense or use at any public function or gathering, including but not limited to parades, sporting events or races, circuses or fairs, flea markets, fireworks displays or other special events, the following items:

(a) Aerosol containers which dispense foam, string, paint or gases.

(b) Fireworks, including caps, firecrackers, smoke bombs or any item which must be ignited by match, striking or throwing.

(c) Water guns or any like items which propel liquids.

(2) The Abington Township Police Department is authorized under this subsection to confiscate the aforementioned items at the aforementioned events.

§ 108-2. Violations and penalties. [Amended 9-14-1978 by Ord. No. 1472]

Any person, firm or corporation or its agents violating this article shall, upon conviction thereof, be subject to a fine of not less than $5 and not more than $100 for each offense and, in default of payment of the fine, shall be committed to the township lockup for a period not exceeding 48 hours.

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ARTICLE II
Health Nuisances
[Adopted 7-9-1959 by Ord. No. 955]

§ 108-3. Liability.

Any person who creates, continues or maintains any public or common nuisance within the Township of Abington shall be deemed guilty of a violation of this article and shall be liable for the expense and abatement and remedy thereof as well as such fines and penalties as may be imposed.

§ 108-4. Definitions.

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

GARBAGE — The refuse from animal and vegetable matter after it has been prepared as food for humans (except oyster and clam shells), and all refuse, animal and vegetable matter after it has been used as food for humans, including all kitchen waste of animal or vegetable nature such as vegetables, meat, fish, fruit, bone or fat, kitchen wastes resulting from the preparation of foods or any other organic substance subject to fermentation and decay.

PERSON — Any individual, partnership, association or corporation as well as all officers, agents, servants, employees or others acting for any of the same, and shall be taken as applying in the singular or plural, as the case may require.

PUBLIC OR COMMON NUISANCE — That which is set up, maintained or continued so as to be injurious to the health or an obstruction to the use of property by interfering with the repose, health, safety or life of the public.

WATERS OF THE TOWNSHIP OF ABINGTON — Includes all streams and springs and all bodies of surface or ground water, whether natural or artificial, within the boundaries of the Township of Abington.

§ 108-5. Refuse.

A. No house refuse, offal, pomace, garbage, dead animals, decaying vegetable matter or organic waste substances of any kind shall be thrown or deposited or allowed to drain into any ravine, ditch or gutter, upon any road, street or highway, into any waters of the Township of Abington or on any public place within the limits of the township, or upon private property, vacant or occupied, and be permitted to remain exposed upon the surface of the ground; and no putrid or decaying animal and vegetable matter shall be kept in any house, cellar or adjoining buildings in an unsanitary manner on any premises.

B. Refuse receptacles shall not be placed at the curb for collection more than 12 hours before disposal time and must be removed from the curb at least 12 hours after the same have been emptied.

§ 108-6. Insects.

A. All marshes or swamps and all pools or ponds, either natural or artificial, shall be maintained by the owners free from the breeding of mosquitoes. If treatment is required to prevent the breeding of mosquitoes, it shall be accomplished by filling, draining, stocking with larvae-eating fish, treating with larvicide or mineral oil or by some other method approved by the Township of Abington Department of Public Health.

B. The owner of any ground, vacant or occupied, must remove and destroy all nests of tent caterpillars

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as soon as they become evident in the early spring and shall take all steps necessary to remove the breeding source to prevent a reoccurrence of the same.

§ 108-7. Water supply.

A. No owner or occupant of any premises shall maintain any well, spring, cistern or other source of water supply used for drinking or household purposes to which the public has or may have access and which is polluted or which is so situated or constructed that it may become polluted in any manner that may render such water supply injurious to health.

B. Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water or where, as a source of fly breeding, it may become a menace to public health.

§ 108-8. Drainage.

A. No person shall drain, empty, pump or allow to drain into any gutter, watercourse, alley or street the contents of any sink, cesspool or privy vault or any kitchen, laundry or other waste water or any liquid deleterious to health used by any manufacturer or other person in any trade or otherwise, from any dwelling premises, place of business, manufactory, hotel, restaurant or other place or building in the Township of Abington. Such drainage, when not connected with the public sewer, must be collected into properly constructed cesspools or reservoirs provided with proper traps and properly covered, and the contents of said cesspools shall be cleaned and removed at sufficiently frequent intervals to prevent the contents from overflowing.

B. No person shall drain, empty, pump or allow to drain onto any other person's property any water or discharge from any swimming pool. Such drains, when directed onto a public highway, right-of-way or storm sewer, shall be constructed under the sidewalk area or conducted over the sidewalk area by temporary means so as not to interfere with the use of the sidewalk area by the public or cause a nuisance. The disposition of swimming pool water or swimming pool discharge into the Abington Township sanitary sewer system is prohibited. **[Amended 5-14-1970 by Ord. No. 1281]**

C. No person shall drain, empty, pump or allow to drain onto any other person's property any water from any pool, whether portable or permanent, nor shall any person permit such drainage to run onto any sidewalk area or public right-of-way, and, further, such drainage shall be properly underdrained where the same is to empty into any public highway, right-of-way or storm sewer. **[Added 10-11-1962 by Ord. No. 1081]**

§ 108-9. Disposition of rubbish.

A. No paper, trash, rubbish, ashes, junk, waste or discarded materials of any kind shall be thrown, deposited or dumped into any ravine, ditch or gutter, upon any road, street or highway or on any public place within the limits of the Township of Abington.

B. Builders or land developers must remove all tree trunks, stumps, limbs and brush from land under development and level all ground so same will not retain pools of water. Where sidewalks are installed, developers must keep sidewalks free from mud and other debris at all times and keep grass cut in sidewalk areas.

C. Occupied properties must be kept free of cans, garbage, bottles or other trash and rubbish. All accessory buildings and garages shall be maintained in such a condition as not to become unsightly or constitute a nuisance by reason of health or safety. **[Amended 10-11-1962 by Ord. No. 1081]**

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D. Nothing in this article shall be construed to prohibit municipal dumps maintained by the township.

§ 108-10. Cases and carts.

No person, firm or corporation shall place or cause to be placed along any public highway, right-of-way, sidewalk area, occupied or unoccupied private property any empty or filled milk cases, bread cases or shopping carts.

§ 108-11. Exposure of foods for sale.

A. No person, firm or corporation shall expose for sale in any public place in the Township of Abington any bakery products or articles of foodstuffs prepared for human consumption and not requiring additional cooking procedure, including olives, pickles, cheese, salads, spiced or cooked meats, relishes, jams and preserves, potato chips, confections, shelled nuts, etc., unless these articles are so covered as to be thoroughly protected from dust, dirt, flies and other vermin.

B. Public places, within the meaning of this article, shall include restaurants and taverns, grocery, delicatessen, confectionery and department stores, bakery shops, markets, stands and containers.

C. Fruits, produce and other foodstuffs displayed for sale on the outside paving or exterior floor level of any public place shall be raised at least 18 inches above the said outside paving or exterior floor level or sidewalk grade, as the case may be.

§ 108-12. Weeds; bamboo. [Amended 5-8-1980 by Ord. No. 1509; 10-9-2014 by Ord. No. 2055]

A. Owners of property situate in the Township of Abington, whether such property is occupied or vacant, must keep the property reasonably free of weeds, invasive honeysuckle vines, underbrush, cans, bottles or any other refuse or debris which may create or may tend to create a harbor for rats or other hazard to the public health and safety of others. Owners of all such property must keep the grass cut on their premises, including the grass in the sidewalk areas adjoining their premises.

B. Owners of such property must correct all violations of this section within 10 days of written notice by the Township.

C. Bamboo.

(1) Purpose and intent. The purpose of this Subsection C is to control the planting, cultivating or growing of certain running bamboo grasses in the Township of Abington and to require barriers to prevent the invasive spread of existing running bamboo into other areas of the Township.

(2) Definitions. As used in this section, the following terms shall have the meanings indicated:

BAMBOO — Any monopodial (running) tropical or semitropical grasses from the genera Bambusa, including but not limited to Bambusa, Phyllostachys, Fallopia and Pseudosasa, as well as common bamboo, golden bamboo, arrow bamboo, and Japanese bamboo.

BAMBOO OWNER — Any property owner or resident who has planted and/or grows bamboo, or who maintains bamboo on his/her property, or who permits bamboo to grow or remain on the property even if the bamboo has spread from an adjoining property. Any property owner of or resident at property on which bamboo is found on the property will be considered a bamboo owner, except any property owner or resident who:

(a) Has provided satisfactory proof to the Township that, within a reasonable period

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of time after discovering the encroachment of bamboo onto the property from an adjoining or neighboring property, he/she advised the owner of such property of his/her objection to the encroachment of the bamboo; and

(b) Has initiated steps for the removal of the bamboo from the property, including remedies at law.

TOWNSHIP — The Township of Abington, Montgomery County, Pennsylvania.

(3) General provisions.

(a) For purposes of this chapter, bamboo found growing upon a property shall constitute presumptive evidence that the bamboo was planted and/or grown by and/or with the consent of the property owner, tenant, or other individual, entity or corporation having control of the property.

(b) Prohibition. Except as provided in § 108C(3)(d) of this Code, upon the effective date of this chapter, the planting or growing of bamboo shall be prohibited within the Township, and no persons, property owners, tenants, or other individuals, entities, or corporations having control of property within the Township shall plant, cultivate, or cause to grow any bamboo on any lot or parcel of ground within the Township. Any person who thereafter plants or grows, or causes or allows to be planted or grown, bamboo within the Township shall be deemed to be in violation of this chapter and shall be subject to such penalties as are set forth herein.

(c) This section shall not be deemed to alter any rights at common law or otherwise that any property owner may have to recover the cost of removal of bamboo on his or her own property that has run over from a neighboring property.

(d) Exceptions:

[1] The root system of such bamboo plants is entirely contained within an above-ground-level planter, barrel or other vessel of such design, material, and location as to entirely prevent the spread of growth of the bamboo plants' root system beyond the container in which it is planted; or

[2] The root system is contained within a barrier, constructed in accordance with the following specifications, and only after a compliance inspection is performed and a permit issued by the Township:

[a] The barrier itself shall be composed of high-density polypropylene or polyethylene, with a thickness of 40 mm or more;

[b] Each portion worksheet of the barrier shall be secured or joined together by the use of stainless steel clamps or stainless steel closure strips designed to be used with such barriers;

[c] The barrier shall be installed not less than 30 inches deep;

[d] The barrier shall be circular or oblong shaped;

[e] Not less than three inches of the barrier shall protrude above ground level around the entire perimeter of the bamboo;

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[f] When installed, the barrier shall slant outward from bottom to top.

[3] Whether planted or growing in a container, as described herein, all bamboo plants shall be located, trimmed and maintained so that no part of the plant, including the root system of the plant, shall be closer than 10 feet to any pavement, sidewalk or public road within the Township. In addition, all bamboo plants shall be maintained such that that portion of the plant that is aboveground shall be trimmed back to a point at least 20 feet from any pavement, sidewalk or public road within the Township.

(e) Any bamboo that has been planted or otherwise permitted to grow on any property within the Township prior to the effective date of this chapter may remain on such property subject to compliance with the following:

[1] The bamboo shall not be closer than 10 feet to any, pavement, sidewalk, or a public road within the Township. In addition, all bamboo plants shall be maintained such that that portion of the plant that is aboveground shall be trimmed back to a point at least 20 feet from any pavement, sidewalk or public road within the Township.

[2] Any bamboo owner whose property contains bamboo shall remove and abate the growth of the bamboo, including the root system of the plant, within 10 feet of the edge of the pavement or traveled portion of a public road in the Township. In addition, all bamboo plants shall be maintained such that that portion of the plant that is aboveground shall be trimmed back to a point at least 20 feet from any pavement, sidewalk or public road within the Township.

[3] Each bamboo owner shall be responsible for ensuring that the bamboo planted or growing on the property prior to the effective date of this section is maintained such that it does not encroach or grow upon any adjoining or neighboring property or properties, including all public property and public rights-of-way.

[4] If the Township Code Enforcement Officer determines that any portion of such bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public right-of-way or any private property not owned by or in the possession of such landowner, the property owner or possessor shall be required to comply with the provisions of § 108-12C(3)(d)[2] above.

(f) Removal. In the event that the bamboo owner does not remove or contract for the removal of the bamboo from the Township property or does not make an arrangement with the Township for removal of such bamboo within 30 days from the date the Township first provided notice, the Township, at its discretion, may take the appropriate steps to effectuate the removal or arrange for removal of such bamboo, including but not limited to filing an action in equity. The bamboo owner shall be liable and responsible to the Township for all costs incurred in removing the bamboo from the Township property, including reasonable attorneys' fees. Such costs may be assessed against the property of the bamboo owner and entered as a lien on the property. Nothing herein shall be construed to create any affirmative obligation on the part of the Township to abate or remove any bamboo within the Township.

(g) Replanting prohibited. Any bamboo either planted or caused to be planted or existing on a property prior to the effective date of this chapter may not be replanted or replaced in kind once such running bamboo is or has become, for any reason, dead, destroyed, uprooted or

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otherwise removed, unless such replanting is consistent with the provisions of this chapter that apply to new plantings.

D. Violations and penalties. Any person, firm or corporation violating any of the provisions of this section shall, in addition to the other charges hereinbefore provided for, upon conviction before any Magisterial District Justice, be guilty of a summary offense and shall be required to pay a fine not exceeding $1,000 and costs of prosecution. Each and every day on which any person, firm or corporation shall be in violation of this section shall constitute a separate offense.

E. Severability. The provisions of this section are severable, and if any section, clause, sentence or part or provision thereof shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair the remaining parts and provisions of this section.

§ 108-13. Violations and penalties. [Amended 11-13-1969 by Ord. No. 1265; 11-8-1984 by Ord. No. 1577]

Any person, firm or corporation found guilty of violating any of the provisions of this article shall, upon conviction thereof, be fined not less than $10 nor more than $100 for the first offense; not less than $25 nor more than $250 for the second offense within a consecutive twelve-month period; not less than $50 nor more than $500 for the third offense within a consecutive twelve-month period; and not less than $200 nor more than $500 for the fourth offense within a consecutive twelve-month period, plus costs of prosecution for each offense, and in default of payment of said fine and costs, the defendant may be sentenced and committed to the township lockup for a period not exceeding 30 days. Each day's failure to comply with any provision of this article shall constitute a separate violation.

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