

ENACTED June 7, 2012

ORDINANCE NO. 3-2012

TOWNSHIP OF DUNBAR

MANDATORY GARBAGE AND REFUSE COLLECTION ORDINANCE

ORDINANCE NO. 3-2012

AN ORDINANCE OF THE TOWNSHIP OF DUNBAR REQUIRING AND REGULATING COLLECTION, TRANSPORTATION, AND DISPOSAL OF WASTE MATERIALS; MAKING IT UNLAWFUL TO ACCUMULATE WASTE MATERIALS; REQUIRING MANDATORY SUBSCRIPTION TO AND PAYMENT FOR WASTE SERVICES; SETTING FORTH REQUIREMENTS FOR THE PREPARATION, STORAGE, COLLECTION, TRANSPORTATION, AND DISPOSAL OF WASTE MATERIALS; AUTHORIZING THE BIDDING AND AWARD OF MUNICIPAL CONTRACTS FOR WASTE SERVICES; PROHIBITING DUMPING, BURNING, OR OTHER UNLAWFUL DISPOSAL OF WASTE MATERIALS; AUTHORIZING THE BOARD OF SUPERVISORS TO PERMIT PERSONAL WASTE COLLECTION, TRANSPORTATION, AND REMOVAL; AUTHORIZING THE BOARD OF SUPERVISORS TO PERMIT CONTINUATION OF EXISTING WASTE SERVICE CONTRACTS; AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, pursuant to Section 2101 of the Second Class Township Code, 53 P.S. § 67101, a second class township has the power to prohibit accumulations of ashes, garbage, solid waste, and other refuse materials upon private property, and to impose and collect reasonable fees and charges for the collection, removal, and disposal thereof; and

WHEREAS, pursuant to Section 2102 of the Second Class Township Code, 53 P.S. § 67102, a second class township has the power to collect and remove, by contract or otherwise, ashes garbage, solid waste, and other refuse materials, and prescribe penalties for the enforcement thereof; and

WHEREAS, pursuant to Section 2103 of the Second Class Township Code, 53 P.S. § 67103, a second class township has the power to dispose of, by contract or otherwise, ashes, garbage, solid waste, and other refuse materials; and

WHEREAS, pursuant to Section 2105 of the Second Class Township Code, 53 P.S. § 67105, a second class township has the power to establish, alter, charge, and collect rates and other charges for the collection, removal, and disposal of ashes, garbage, solid waste, and other refuse materials; and

WHEREAS, pursuant to Section 103 of the Second Class Township Code, 53 P.S. § 66529, a second class township has the power to prohibit nuisances; and

WHEREAS, pursuant to Section 304(a) of the Municipal Waste Planning, Recycling, and Waste Reduction Act, 53 P.S. § 4000.304(a), a municipality has a duty to assure the proper and adequate transportation, collection, and storage of municipal waste that is generated or present within its boundaries and to assure adequate capacity for the disposal of municipal waste generated within its boundaries; and

WHEREAS, pursuant to Section 304(b) of the Municipal Waste Planning, Recycling, and Waste Reduction Act, 53 P.S. § 4000.304(b), a municipality may adopt resolutions, ordinances, regulations, and standards for the transportation, storage, and collection of municipal wastes; and

WHEREAS, pursuant to Section 304(c) of the Municipal Waste Planning, Recycling, and Waste Reduction Act, 53 P.S. § 4000.304(c), a municipality may contract with any person to carry out its duties for the transportation, collection, and storage of municipal waste; and

WHEREAS, the Board of Supervisors or the Township of Dunbar, Fayette County, Pennsylvania, desires to regulate the collection, transportation, and disposal of waste materials within the boundaries of the Township of Dunbar.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, and it is hereby enacted and ordained as follows:

**Section 1. Short Title.**

This ordinance shall be known as the “Mandatory Garbage and Refuse Collection Ordinance.”

**Section 2. Definitions.** The following words and terms as used in this ordinance have the meaning ascribed thereto, unless the content clearly indicates a different meaning:

- (1) *Board of Supervisors* - Board of Supervisors of the Township of Dunbar.
- (2) *Collector or collectors* - any person, firm, co-partnership, association or corporation that collects, transports, or disposes of garbage, refuse, rubbish, or ruffraff for a fee, including but not limited to any collector awarded a contract by the Township to collect, transport, and dispose of garbage, refuse, rubbish, or ruffraff.
- (3) *Combustible refuse* - all paper, excelsior, rags, rubber, shoes and such other refuse which may result from ordinary housekeeping or commercial pursuits and which may be burned by fire.
- (4) *Existing Contract* - Any contract with a collector for the collection, transportation, or disposal of garbage, refuse, rubbish, or ruffraff generated or located within the Township which (a) was legally entered into prior to the effective date of this ordinance and (b) when entered into was legally enforceable.
- (5) *Garbage* - all table refuse, animal and vegetable matter, offal from meat, fish and fowl, vegetables and fruits and parts thereof, and other articles and materials ordinarily used for food and which have become unfit for use for which reason they are discarded.

- (6) *Hazardous waste* - waste that is especially harmful or potentially harmful to public health. This shall include, but not be limited to, explosives, toxic materials, radioactive and medical waste. For purposes of this ordinance, hazardous waste does not include small quantities of such waste available on a retail basis to the homeowner such as aerosol cans, pesticides, fertilizers, and similar items disposed of in small quantities.
- (7) *Incombustible refuse* - all discarded articles or materials, except sewage, liquid waste, garbage, and combustible refuse.
- (8) *Person* - any natural person, association, partnership, firm, limited liability company, or corporation.
- (9) *Refuse* - all combustible refuse, incombustible refuse, and garbage referred to collectively.
- (10) *Riffraff* - all waste materials too large for collection in the ordinary containers, such as furniture, tanks, stoves and the like.
- (11) *Rubbish* - all miscellaneous waste materials not otherwise included herein, including but not limited to ashes, tin cans, pottery, pruning from vines and junk of all kinds resulting from the ordinary conduct of business or housekeeping.
- (12) *Township* - the Township of Dunbar, a municipal body of Fayette County, Pennsylvania.

**Section 3. Unlawful to Accumulate Waste Materials.**

From and after the effective date of this ordinance and for reasons of health and sanitation, it shall be unlawful for any person to accumulate or permit to accumulate upon private property in the Township, garbage, refuse, rubbish, and riffraff for a period in excess of seven (7) days. The accumulation or storage of hazardous waste upon private property in the Township is prohibited. The owner(s), primary tenant(s), or primary occupant(s) of each premises shall pick up and dispose of any garbage, refuse, rubbish, or riffraff deposited or accumulated upon any sidewalk, gutter area, berm, or margin on or adjacent to such premises.

**Section 4. Mandatory Subscription to Waste Collection Services; Liability for Costs of Waste Collection Services; Billing and Assessment of Waste Collection Services; Default in Payment and Imposition of Penalties and Service Fees.**

(1) Unless otherwise permitted under Section 12 of this ordinance, the owners, primary tenants, or primary occupants of all dwellings, multiple dwelling structures, apartments, commercial structures, industrial structures, or any other type of structures, or parts thereof or units therein, in the Township, shall utilize and subscribe to garbage, refuse, rubbish, and riffraff collection, transportation, and disposal service and make payment to such utilized or subscribed collector; provided, however, that if the Board of Supervisors, by resolution, awards one or more contracts for garbage, refuse, rubbish, or riffraff collection, transportation, or disposal service to any one or more collectors pursuant to Section 8 of this ordinance, the owners, primary tenants, or primary occupants of all dwellings, multiple dwelling structures, apartments, commercial structures, industrial structures, or any other type of structures, or parts thereof or units therein, in the Township, shall utilize and subscribe to such contracted garbage, refuse, rubbish, or

riffruff collection, transportation, and disposal service and make payment to such contracted collector, as set forth in this ordinance, unless otherwise permitted pursuant to Section 13 of this ordinance.

(2) Notwithstanding subsection (1), above, any person who owns a dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or parts thereof or units therein, in the Township, which he does not occupy, or which he lets to others, or which he permits others to occupy, shall be jointly and severally responsible and liable with the occupant(s) of the said structure for the cost of garbage, refuse, rubbish, and riffruff collection, transportation and disposal, whether such cost be assessed by a private collector or, if applicable, any collector awarded a contract by the Township, as set forth in this ordinance.

(3) No person shall dispose of his garbage, refuse, rubbish, or riffruff except as provided in this ordinance, except nothing herein contained shall prevent the use of a device commonly known as a disposal which is attached to a sink and connected into a sewer.

(4) The owner(s), primary tenant(s), or primary occupant(s) of each dwelling, multiple dwelling structure, or apartment, or any unit therein, shall receive a bill at least quarterly, or at such shorter intervals as is required by resolution of the Board of Supervisors or as provided in any contract awarded by the Board of Supervisors for garbage, refuse, rubbish, or riffruff collection, transportation, and disposal service, in an amount determined under such contract with a private collector or, if applicable, any collector awarded a contract by the Township, as set forth in this ordinance. The owner, primary tenant, or primary occupant of each commercial structure or industrial structure, or any unit therein, shall receive a bill at such intervals as requested by such owner, primary tenant, or primary occupant, or at such intervals as is required by resolution of the Board of Supervisors or as provided in any contract awarded by the Board of Supervisors for garbage, refuse, rubbish, or riffruff collection, transportation, and disposal service. In no event and under no circumstance shall any interval requested by any owner, primary tenant, or primary occupant be less than monthly or greater than annually.

(5) Subject to the provisions of Section 5(2)(D) of this ordinance, each separately or independently occupiable unit within a dwelling, multiple dwelling structure, apartment building, townhouse complex, commercial structure, industrial structure, or other structure shall be treated as a separate residence or unit, with each separate unit being required to have collection on the same basis as a single residence or unit. Each separately or independently occupiable unit within a dwelling, multiple dwelling structure, apartment building, townhouse complex, commercial structure, industrial structure, or other structure, shall be assessed separately for the cost of garbage, refuse, rubbish, or riffruff collection, transportation, and disposal service. Duplex houses shall be assessed as at least two separate units, unless the house is not used and occupied as two separate units.

(6) Owners(s), primary tenant(s) or primary occupant(s) who are billed for garbage, refuse, rubbish, or riffruff collection, transportation, and disposal service hereunder, shall remit payment for those services directly to the collector that collected, transported, or disposed of

such waste from the particular premises for which the bill is issued. The Township and the Board of Supervisors shall have no obligation to any collector arising from the partial payment or nonpayment of any bill.

(7) If, after being sent a bill for garbage, refuse, rubbish, or ruffraff collection, transportation, and disposal service by any collector, the owner(s), primary tenant(s), or primary occupant(s) of a dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof, in the Township, or any unit therein, fails to remit payment to the proper collector by the date upon which such bill is due and payable, the owner(s), primary tenant(s), and primary occupant(s) shall be deemed to be in violation of the provisions of this ordinance.

(8) In the event that the owner(s), primary tenant(s), or primary occupant(s) of a dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof or any unit therein, in the Township, fails to pay the collector within thirty (30) days after a bill becomes due and payable, the collector may, in its discretion, impose a service charge or late fee upon such individuals of not more than five (5) percent of each overdue bill, subject to the terms and conditions of the collector's contract with the Township, if applicable. Such service charge or late fee may be imposed in addition to any other remedy sought by the collector or penalty imposed upon the owner(s), primary tenant(s), or primary occupant(s) of a dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof or unit therein, in the Township, in accordance with this ordinance and any other law, statute, ordinance, or act.

(9) If requested by the Township, the Board of Supervisors, the Township code enforcement officer, any other official of the Township, or any other person so authorized to enforce this ordinance, the owners, primary tenants, and primary occupants of premises within the Township shall furnish to the Township the name and address of the collector servicing his premises within five (5) days of the date of such request. Failure to timely provide such name or address shall be a violation this ordinance.

#### **Section 5. Preparation and Storage of Garbage, Refuse, Rubbish, and Ruffraff.**

##### **(1) *Preparation of Refuse:***

(A) All refuse shall be drained free of liquids before being deposited for collection and disposal, and all ashes shall be free of any burning material before being deposited for collection and disposal.

(B) All garbage shall be wrapped in paper, plastic or similar material before being placed in an approved refuse container.

(C) All garbage, refuse, rubbish, and ruffraff shall be prepared and stored so as to prevent the attraction, harborage, or breeding of insects or rodents and to eliminate conditions

harmful to public health or which create safety hazards, odors, unsightliness, and public nuisances.

(D) All hazardous waste, including but not limited to municipal waste of a highly flammable or explosive nature or highly infectious or contagious municipal waste, shall not be stored for ordinary collection, but shall be specially disposed of in accordance with the directions of the Board of Supervisors or any state, federal, or local authority having jurisdiction thereof.

(E) All cans, bottles, or other food containers which are otherwise not suitable for recycling shall be rinsed free of food particles and drained before disposal.

(F) Garbage, refuse, and rubbish shall be (1) placed in an approved refuse container, or (2) cut and bagged, bailed, tied, bundled, stacked or packaged so as not to exceed fifty (50) pounds in weight, except as may otherwise be provided herein.

(G) No person shall place any garbage, refuse, rubbish, or ruffraff out for collection, transportation, or disposal earlier than 6:00 p.m., prevailing time, on the day preceding the scheduled date of collection.

(H) No person shall maliciously spill or scatter the contents of any refuse container or garbage/trash bag, or damage or destroy any such refuse container or garbage/trash bag. No person, except the owner(s), primary tenant(s), or primary occupant(s) of the premises on which the refuse container or garbage/trash bag is placed, or an authorized collector, shall remove the lid of the container or remove the contents of such refuse container or garbage/trash bag.

(2) *Approved Refuse Containers:*

(A) Refuse containers shall be made of durable, watertight, rust resistant material having a close-fitting lid and handles to facilitate collection or may be common garbage/trash bags made of durable plastic and tied or otherwise securely fastened to contain the waste therein.

(B) Refuse containers and garbage/trash bags for residences shall not be less than fifteen (15) gallons nor more than forty (40) gallons in capacity, and shall be provided by the owner, tenant, or occupant of the premises being serviced by the collector.

(C) It shall be unlawful to permit the accumulation or residue of liquids, solids or a combination of such material on the bottom or sides of containers, it being the intention of this provision that the interior of containers shall be kept clean through rinsing and draining as often as necessary.

(D) Notwithstanding the provisions of this Section 4(5) of this ordinance, if the Township awards a contract to a collector for the collection, transportation, or disposal of

garbage, refuse, rubbish, or ruffraff, the owner(s) of a dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof, in the Township comprised of more than four (4) units, may, by agreement with such collector, be permitted to place a dumpster at a certain mutually agreed place upon premises for use only by the owner(s), primary tenant(s), and primary occupant(s) of such dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or any unit therein, for the collection and storage of garbage, refuse, rubbish, and ruffraff generated upon those premises. In such case, each unit shall not be assessed separately for the cost of garbage, refuse, rubbish, or ruffraff collection, transportation, and disposal service, and the cost for such collection, transportation, and disposal service shall be the cost of the dumpster.

(E) In no event and under no circumstance shall dumpsters, refuse containers, garbage/trash bags, or other containers be permitted to overflow or to have garbage, refuse, rubbish, or ruffraff strewn or left about them on the ground. A violation of this provision shall be deemed a violation of this ordinance by the person on whose property the dumpster, refuse container, garbage/trash bag, or other container is located, if it is located on private property.

(3) *Storage of Garbage, Refuse, Rubbish, and Ruffraff:*

(A) Each householder, commercial or industrial establishment, or person having garbage or refuse shall provide himself with approved refuse containers, and shall place and keep all garbage and refuse therein; except as provided herein for the handling of rubbish and ruffraff.

(B) It shall be unlawful to place or store any garbage, refuse, rubbish, ruffraff, or hazardous waste in any street, alley, stream body of water or any other public place, or upon private property, whether owned or not, except as otherwise provided herein. No person shall bring in, nor permit any other person to bring upon his property, any garbage, refuse, rubbish, ruffraff, or hazardous waste into the Township for disposal, unless such person operates an authorized sanitary landfill, recycling center, or similar authorized operation for disposal of such waste, and the said waste is placed or stored upon the said premises for the purpose of lawful disposal or recycling.

**Section 6. Placement of Containers.**

(1) Refuse containers and garbage/trash bags shall, for the purpose of collection, be placed at ground level and be made readily accessible to the collector. They shall be placed at the front or rear of the building from which collection is to be made, or at the curbside or street-line of public streets, as may be designated by the collector and approved by the Board of Supervisors, or as required by resolution of the Board of Supervisors.

(2) Notwithstanding provisions of the above subsection, householders, commercial or industrial establishments, or other persons may, by agreement with the collector(s), be permitted to place containers at other agreed places upon their premises.

**Section 7. Collection, Transportation, and Disposal.**

(1) *Frequency of Collection:*

(A) Garbage, refuse, and rubbish shall be collected not less than once per week.

(B) Hotels, restaurants, institutions and commercial establishments may be required to have more frequent collection, if determined by the Board of Supervisors, or any other official of the Township, to be reasonable, necessary, or essential to protect the public health.

(C) Multiple dwelling structures, apartment buildings, and multiple-unit establishments or institutions having more than fifteen (15) units shall have as frequent collection as necessary to protect the public health, but in no case shall collection occur less than once per week.

(D) If the Board of Supervisors, by resolution, awards one or more contracts for garbage, refuse, rubbish, or ruffraff collection, transportation, and disposal service to any one or more collectors, such collector, with the approval of the Board of Supervisors, shall designate two (2) days each year, one during the first six months of the year and one during the second six months of the year, for the collection of ruffraff, and shall notify the public of such designated days through the news media, on the bills sent to customers, and as may be further directed by the Board of Supervisors. On such designated day, the collector will, without additional charge, pick up any article of ruffraff that is placed at the designated location for regular collections; provided, however, that in the event the collector is required to go into any dwelling, building, or structure to pick up ruffraff, a special charge may be made.

(2) All vehicles used for the collection, transportation, or disposal of garbage, refuse, rubbish, or ruffraff shall be of metal or other durable body, securely covered, watertight, strongly built, kept thoroughly cleansed, and well painted. Any person collecting, transporting, or disposing of material shall take such measures as are necessary to prevent material from being blown or falling from the vehicle.

(3) All vehicles used for the collection, transportation, or disposal of garbage, refuse, rubbish, or ruffraff shall have the window sticker issued for each vehicle with the license displayed on the vehicle for which it is issued as directed or required by the laws of the Commonwealth of Pennsylvania. All such vehicles shall have placed on the doors or each side of the body the name of the collector, the telephone number of the collector's office or headquarters, and the type of waste being transported therein. The size of such lettering shall be no less than six (6) inches in height and clearly legible. Vehicles shall be so marked within thirty (30) days after the commencement of their use within the Township.



(4) The Township shall have the right to inspect any collection vehicle at any time and place while it is being used within the Township. In addition, any person who is awarded a contract for the collection, transportation, or disposal of garbage, refuse, rubbish, or ruffraff shall make vehicles available for inspection whenever so requested by the Board of Supervisors at the specific time and place of the Board of Supervisor's choosing.

(5) Any person collecting, transporting, or disposing of garbage, refuse, rubbish, or ruffraff shall handle all receptacles and containers as carefully and quietly as possible and shall return (not throw) them to the location where found. All handling, collection, transportation, and disposal of garbage, refuse, rubbish, and ruffraff shall be done in such a manner that no spilling, leaking, or strewing shall occur, either on such premises or on the streets of the Township.

(6) Any person collecting garbage, refuse, rubbish, or ruffraff shall collect such garbage refuse, rubbish, or ruffraff from premises within the Township only between the hours of 6:00 a.m., prevailing time, and 6:00 p.m., prevailing time, on any given day, or on such day as is provided under the contract awarded by the Township or by ordinance or resolution of the Board of Supervisors.

(7) Any person collecting, transporting, or disposing of garbage, refuse, rubbish, or ruffraff within or from the Township shall be responsible for the manner in which his employees perform work pertaining to collection, transportation, and disposal of all such garbage, refuse, rubbish, or ruffraff.

(8) The transfer of garbage, refuse, rubbish, or ruffraff from one collection vehicle to another may not take place in the Township, except on private property. No such transfer may take place on any public right-of-way, and no such transfer operation may block traffic, create litter, or in any other manner constitute a nuisance, create a health hazard, or violate any other ordinance of the Township or other local authority or provision of federal or state law.

(9) Unless otherwise approved by ordinance or resolution of the Board of Supervisors, any person who is awarded a contract for the collection, transportation, or disposal of garbage, refuse, rubbish, or ruffraff shall collect an unlimited number of refuse containers, garbage/trash bags, and bundles of the authorized size and weight from each premises and must be capable of safely serving and shall safely serve all residents of the Township.

(10) The collection, transportation, and disposal practices of any person collecting, transporting, or disposing any garbage, refuse, rubbish, or ruffraff shall strictly conform and comply with all applicable state, federal, and local statutes, ordinances, regulations, rules, and acts, including but not limited to all ordinances of Fayette County, Pennsylvania and the Township, and any contract entered into with the Township. All persons collecting, transporting, or disposing of garbage, refuse, rubbish, or ruffraff within or from the Township shall have an affirmative duty to follow and conduct himself in accordance with his current license or permit, as provided by the Commonwealth of Pennsylvania.

(11) Any person authorized to collect, transport, or dispose of garbage, refuse, rubbish, or ruffraff within or from the Township shall comply with all regulations and requirements of any Fayette County solid waste management or disposal plan, including but not limited to any requirement to dispose of garbage, refuse, rubbish, ruffraff or other waste materials at designated locations, as amended or as applicable.

(12) With the exception of any person collecting, transporting, or disposing of his own personal waste material pursuant to Section 12 of this ordinance, it shall be unlawful for any person, other than such persons as are duly authorized by the Commonwealth of Pennsylvania, to collect and to transport garbage, refuse, rubbish, or ruffraff within or from the Township.

(13) Upon request by the Township, the Board of Supervisors, the Township code enforcement officer, any other official of the Township, or any other person so authorized to enforce this ordinance, any person collecting, transporting, or disposing of garbage, refuse, rubbish, or ruffraff within or from the Township shall provide to the Township copies of any and all records pertaining to customer lists, collection records, and weight and payment slips from any waste disposal company, transfer station, or landfill facility. The Township shall have the right to request and receive such records to the extent that it may deem them to be necessary for the furtherance of the purposes, administration, and enforcement of this ordinance. Once a written request for records is made by the Township pursuant hereto, the collector to whom the request is directed shall comply therewith and supply the requested records in accordance therewith within fifteen (15) days from the date of the request. Failure to timely provide such records shall be a violation this ordinance.

(14) In order to assist in enforcing this ordinance and offsetting the costs of such enforcement, all persons collecting, transporting, or disposing of garbage, refuse, rubbish, or ruffraff within the Township may be required to obtain a permit or license to collect, transport, or dispose of garbage, refuse, rubbish, or ruffraff and pay such licensing, permitting, or operating fees as may be required by ordinance or resolution of the Board of Supervisors.

(15) The collection of garbage, refuse, rubbish, ruffraff or other refuse material in the Township and the transportation and disposal thereof shall be subject to such further reasonable rules and regulations as may from time to time be promulgated by ordinance or resolution of the Board of Supervisors, including but not limited to permitting or licensing requirements.

#### **Section 8. Bidding; Awarding of Contract.**

(1) Following the enactment of this ordinance, the Township and Board of Supervisors may prepare, or direct other officials of the Township to prepare, specifications for bidding for one or more contracts covering the collection, removal, and disposal of garbage, refuse, rubbish and ruffraff in the Township.

(2) By resolution of the Board of Supervisors, the Township may seek and advertise for bids for a contract or contracts for the collection, transportation, and disposal of garbage, refuse, rubbish and ruffraff, and a contract or contracts may be awarded to the lowest responsible

bidder(s), at specifications and requirements which are set by the Board of Supervisors. The Board of Supervisors and the Township hereby reserve and, with the bid specifications and other bid documents, shall reserve 1) the right to waive any technical defects or deficiencies in any submitted bids and 2) the right to reject any or all bids.

(3) Except as may be provided for personal waste collection, transportation, and disposal or existing contracts under the provisions of Section 12 and Section 13 of this ordinance, if the Board of Supervisors, by resolution, awards one or more contracts for garbage, refuse, rubbish, or ruffraff collection, transportation, and disposal service to any one or more collectors, only the person or persons to whom such contracts are awarded shall be permitted to engage in the activities covered by such contracts in the Township.

(4) *Bidding:*

(A) At a time and place appointed by the Township for submission of such bids, the same shall be opened by the Board of Supervisors. If a satisfactory bid is submitted by a collector deemed to be a responsible bidder, the Board of Supervisors may award to such bidder a contract for the collection, removal, and transportation of garbage, refuse, rubbish, or ruffraff for ultimate disposal by approved methods, including but not limited to the sanitary land fill method. The collector shall, during the continuance of the contract, truly abide by, comply with and perform all the terms and provisions of the contract and of this ordinance and such other rules and regulations as may be adopted from time to time. The Board of Supervisors specifically reserves the right to formulate further rules and regulations applicable to contracted collectors as may be deemed necessary.

(B) The Board of Supervisors reserves the right to and may in its discretion divide collection, transportation, and disposal services or types of services within the Township such that more than one set of specifications be prepared and more than one contract for the collection, transportation, and disposal of garbage, refuse, rubbish, or ruffraff be awarded.

(C) Before any contract shall be entered into, the person to whom such contract is awarded shall furnish a bond in an amount and with such one or more sufficient sureties as are acceptable to the Board of Supervisors.

(D) The Board of Supervisors is specifically authorized to and may in its discretion collect a franchise or operating fee from any person awarded a contract for the collection, transportation, and disposal of garbage, refuse, rubbish, or ruffraff.

(E) All bids submitted to the Township or the Board of Supervisors shall be subject to the provisions of this ordinance, and any amendments hereto, and any further rules and regulations of the Township. Submission of a bid by any person shall conclusively evidence such person's acknowledgement of the provisions of this ordinance.

**Section 9. Dumping or Burning Prohibited.** It shall be unlawful to dump, burn, bury, destroy or otherwise dispose of garbage, refuse, rubbish, or ruffraff within the jurisdictional limits

of the Township, except as otherwise provided herein at any designated and approved refuse disposal site. However, the burning of lawn, shrub, and tree trimmings, and garden refuse and rubbish may be permitted from time to time, as may be specified by ordinance or resolution of the Board of Supervisors.

**Section 10. Disposal of Garbage, Refuse, Rubbish, and Riffraff.** No person shall use or permit to be used any spot or place within the Township as a public or private dump for garbage, refuse, rubbish or riffraff or other waste material, unless otherwise specifically authorized by the Board of Supervisors of the Township and all designated federal, state, and county authorities.

**Section 11. Other Refuse Material.** In addition to the prohibitions of Section 3 of this ordinance, no person shall accumulate waste material upon private property in the Township except in such limited quantities and for such limited periods of time as shall insure that no annoyance, nuisance, health, or fire hazard shall be created thereby, and any unauthorized accumulation of waste material on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of waste material within thirty (30) days after the effective date of this ordinance shall be deemed a violation.

**Section 12. Collection, Transportation, and Disposal of Personal Waste.**

(1) If expressly permitted by ordinance or resolution of the Board of Supervisors, any person occupying or owning a dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof or unit therein, in the Township, may collect, transport, and dispose his own garbage, refuse, rubbish, or riffraff at a waste disposal company, transfer facility, or landfill facility instead of utilizing and subscribing to the services of a collector. Any person collecting, transporting, or disposing of his own garbage, refuse, rubbish, or riffraff under this Section 12 shall do so at least weekly or at such shorter intervals as is necessary to prevent accumulations of garbage, refuse, rubbish, or riffraff that may be unsafe, unsightly, or potentially harmful to the public health.

(2) Any person collecting, transporting, or disposing of his own garbage, refuse, rubbish, or riffraff under this Section 12 shall do so in accordance with all applicable federal, state, and local laws, statutes, regulations, ordinances, resolutions, and orders.

(3) Any person collecting, transporting, or disposing of his own garbage, refuse, rubbish, or riffraff under this Section 12 shall obtain and keep 1) complete records, including but not limited to weight receipts, of the weight and type of any and all garbage, refuse, rubbish, or riffraff collected, transported, or disposed of at a waste disposal company, transfer station, or landfill facility during the preceding two (2) years, and 2) complete records, including but not limited to payment receipts, of all payments made to any waste disposal company, transfer station, or landfill facility during the preceding two (2) years. All such records shall be clearly dated and shall provide the name and contact information of such waste disposal company, transfer station, or landfill facility. If requested by the Township, the Board of Supervisors, the Township code enforcement officer, any other official of the Township, or any other person so authorized to enforce this ordinance, copies of any and all such records shall be provided to the

Township within fifteen (15) days of such request. Failure to obtain and keep such complete records or to timely provide such records shall be a violation this ordinance.

**Section 13. Existing Contracts.**

(1) If the Board of Supervisors awards one or more contracts for garbage, refuse, rubbish, or ruffraff collection, transportation, or disposal service to any one or more collectors, and if expressly permitted by ordinance or resolution of the Board of Supervisors, the owner(s), primary tenant(s), and primary occupant(s) of any dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof or any unit therein, in the Township, may keep, continue, and maintain any existing contract for the collection, transportation, and disposal of garbage, refuse, rubbish, or ruffraff. In such event, such owner, primary tenant, or primary occupant shall not be required to utilize and subscribe to garbage, refuse, rubbish, or ruffraff collection, transportation, or disposal service from the collector to whom the Township has awarded a contract for such service.

(2) Unless otherwise provided by ordinance or resolution of the Board of Supervisors, no renewal, modification, or extension of any existing contract authorized or permitted under this Section 13 shall be agreed to or entered into after the effective date of this ordinance.

(3) Upon the cancellation, expiration, termination, completion, or forfeiture of any existing contract authorized or permitted under this Section 13, the owner(s), primary tenant(s), and primary occupant(s) of any dwelling, multiple dwelling structure, apartment, commercial structure, industrial structure, or any other type of structure, or part thereof or any unit therein, in the Township, shall be required to receive and pay for garbage, refuse, rubbish, or ruffraff collection, transportation, or disposal service from the collector to whom the Township has awarded a contract for such services.

**Section 14. Penalties.**

(1) The failure of a person to comply with any term, provision, requirement or mandate under this shall constitute a violation hereof. All actions for enforcement of this ordinance shall be brought as follows:

(A) As a summary offense, before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, firm or corporation who shall violate any provision of the ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus court costs and costs of prosecution and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this ordinance continues or each section of this ordinance which shall be found to have been violated shall constitute a separate violation and offense.

(B) As a civil action in law or equity, before a magisterial district judge in the same manner provided under the Pennsylvania Rules of Civil Procedure for Magisterial District Judges. Any person, partnership, or corporation who or which has violation of the provisions of this ordinance, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not less than \$100 nor more than \$600 plus all court costs and costs of prosecution. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by a magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure, at which time, in addition to any penalties, the violator shall be liable for any attorney's fees and costs incurred. Each day that a violation continues or each section of this ordinance which shall be found to have been violated shall constitute a separate violation and offense.

(2) The presence of any articles containing a person's name among garbage, refuse, rubbish, or ruffraff shall create a rebuttable presumption, for purposes of this ordinance, that said garbage, refuse, rubbish, or ruffraff is the property of the person whose name is found therein. This presumption shall only be rebutted by clear and convincing evidence to the contrary.

(3) For purposes of enforcing this ordinance with any fine, imprisonment, or other penalty, any officer, director, or member of any corporation or other legal entity having officers, directors, or members shall be responsible and liable to the same degree as any such corporation or other legal entity.

(4) In addition to any other remedy provided in this ordinance, the Township may institute proceedings to restrain any violation of, or to require compliance with, this ordinance.

(5) The existence or exercise of any remedy provided by this ordinance shall not prevent the Township from exercising any other remedy available at law or equity.

#### **Section 15. Miscellaneous.**

(1) Nothing contained herein shall prohibit a farmer from carrying out the normal activities of his farming operation, including composting and spreading of manure or other farm-produced agricultural wastes.

(2) In addition to those individuals, agents, or officers generally empowered to enforce this ordinance, a collector who is awarded a contract to collect, transport, or dispose of garbage, refuse, rubbish, or ruffraff, as described herein, may be authorized and empowered, by resolution or ordinance of the Board of Supervisors, to institute any civil and/or criminal action on behalf of Dunbar Township to enforce the provisions of this ordinance. Nothing herein shall be construed to limit the authority or ability of the Board of Supervisors, the code enforcement officer(s), the Pennsylvania State Police, or any other law enforcement or other agent of the Township or the Board of Supervisors to enforce this or any other ordinance.

(3) The various headings used throughout this ordinance are intended only as an aid in its organization, in order to facilitate ease of reading, and are not to be considered a substantive part of this ordinance. In this ordinance, unless the context indicates otherwise, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and neuter.

(4) All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.


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

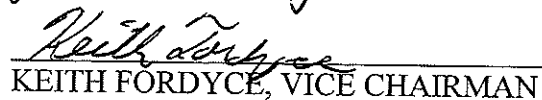
(6) This ordinance shall take effect and be in full force and effect five (5) days from and after the date of its final passage and adoption.

DULY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, this 7 day of June, 2012.

BOARD OF SUPERVISORS OF THE TOWNSHIP OF  
DUNBAR, FAYETTE COUNTY, PENNSYLVANIA

BY:

  
\_\_\_\_\_  
JOHN TABAJ, CHAIRMAN

  
\_\_\_\_\_  
KEITH FORDYCE, VICE CHAIRMAN

  
\_\_\_\_\_  
RONALD KELLER, SUPERVISOR

  
  
\_\_\_\_\_  
RONALD KELLER, SECRETARY/TREASURER