

1st 2/14/13
2nd 2/20/13

Township of Lower, County of Cape May, State of New Jersey

Ordinance #2013-04

AN ORDINANCE AMENDING CHAPTER 570 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF LOWER

WHEREAS, Article II Section 570-15 of the Revised General Ordinances of the Township of Lower governs the handling of material intended for recycling; and

WHEREAS, there has been increasing number of non-regulated persons conducting the activity of canvassing the Township in search of certain discarded bulk materials for the purpose of selling same to scrap yards.

WHEREAS, there is a need to regulate this activity for the purpose of both protecting the public and accounting to the State of New Jersey for said materials removed from Lower Township for recycling purposes.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township of Lower Council, County of Cape May and the State of New Jersey as follows:

Section 1. Section 570-15 of the Revised General Ordinance of the Township of Lower is hereby enacted as follows:

- A. Title.** The new revised Article II Section 570-15 to be titled "Scrapping".
- B. Definition.** For the purpose of this article Scrapping is hereby defined as any action taken by those independent persons or entities, not associated with the Township of Lower, who engage in the practice of searching and gathering certain discarded bulk materials for the purpose of resale to recycling entities.
- C. Bulk Materials.** Bulk materials are hereby defined as any materials other than those recyclable materials normally picked up by Lower Township on a regular basis (i.e. aluminum, tin, steel cans, glass, plastic, cardboard, paper, etc., hereinafter "normal household recyclables"). Scrappers are hereby specifically prohibited from gathering "normal household recyclables".

D. Fee. All such persons described above (hereinafter referred to as "Scrappers") prior to conducting the activities described in Section B above shall first obtain a permit from the Township before conducting any such activity. The Fee for said permit shall be \$10 for the term of one year. Said one year period shall run from January 1 to December 31st .

E. Requirement. In order to qualify for said permit each applicant must show that he or she is a Lower Township resident; present a valid Driver's License; Registration and valid proof of insurance for any vehicle intended to be used for this activity. Applicant is hereby further required to sign an Indemnification Agreement indemnifying the Township from any liability as a result of applicant or any agents of applicants action while conducting any activities pursuant to this section.

F. Accounting of Materials Taken. All persons acting under this article are to provide copies of receipts from the salvage yard to the Township setting forth only the weight and type of material removed from Lower Township.

G. All activities under this article are limited to only those areas designated herein for placement of any recyclable materials for pickup by the Township (i.e. curbside) and those specifically authorized by the property owner.

H. All persons conducting the activities described herein and are to leave any areas where such activity has been conducted in a neat and orderly fashion.

I. Storage. No material gathered pursuant to any activity governed under this article is to be stored anywhere in the Township of Lower, unless stored in an area previously and expressly approved by the Township of Lower as being an appropriate site for the storage of such materials.

§570-16. Enforcement.

A. The Municipal Recycling Coordinator and the following designees, the Public Works Manager, Code Enforcement Officer and the Lower Township Police Department, are hereby individually and severally empowered to enforce the provisions of this article. The enforcers of the article may conduct an inspection at the site of the generator, which consists of sorting

through containers and opening of solid waste bags to detect, by sound or sight, the presence of any designated recyclable material.

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

C. Any permits issued pursuant to code section §570-15 are hereby revocable for any violations or other cause, at the sole discretion of the Municipal Clerk.

§570-17. Rules and regulations.

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

§570-18. Violations and penalties.

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

Section 2. The above revised Ordinances §570-15 through §570-18 are intended to replace and supercede all previous provisions set forth under said code sections.

Section 3. All other Ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.


Section 4. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 5. Upon final passage and publication according to law, a copy of the Ordinance shall forthwith be certified by an appropriate officer of the Township of Lower and filed with the Secretary of State.

Section 6. This Ordinance shall take effect twenty (20) days after final passage and Publication as provided by law.



Thomas Conrad, Councilmember



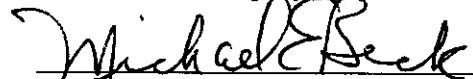
James Neville, Councilmember



Glenn Douglass, Councilmember




Norris Clark, Deputy Mayor



Michael E. Beck, Mayor

Adopted: Oct 20, 2013

Attest: 
Julie A. Picard, Township Clerk