

**ORDINANCE NO. 123
WASTE HAULERS/COLLECTORS
LICENSING ORDINANCE**

An ordinance to provide for the licensing of garbage, trash, and recyclables collectors or haulers, to provide licensing and operating requirements for such collectors or haulers, and to provide penalties for the violation of these requirements.

SECTION 1.00 TITLE. This ordinance shall be known and referred to as the "Jamestown Charter Township Waste Haulers/Collectors Licensing Ordinance".

SECTION 2.00 DEFINITIONS. In the enforcement and interpretation of this Ordinance, the following words, terms or phrases are defined as stated herein, unless specifically stated otherwise.

SECTION 2.01. BAGS. Plastic sacks, constructed from a minimum of 50% recycled materials, designed to store refuse of recyclables and having sufficient wall strength to maintain physical integrity if lifted from the top when full.

SECTION 2.02. BULKY WASTE. Discarded or unusable stoves, refrigerators, water tanks, washing machines, furniture and other waste materials, except construction debris, dead animals, hazardous waste, or stable materials in amounts that cannot be stored in containers.

SECTION 2.03. BUNDLES. Tree, shrub or brush trimmings which are securely tied together, in a package that is not longer than 4 feet nor weighs more than 40 pounds.

SECTION 2.04. CONSTRUCTION DEBRIS. Waste building materials which result from construction, remodeling, repair or demolition operations.

SECTION 2.05. DEAD ANIMALS. Animals or portions thereof equal to or greater than ten pounds in weight, that have expired from any cause (except, those slaughtered or killed for human use).

SECTION 2.06. DISPOSAL SITE. A refuse depository including, but not limited to, sanitary landfills, transfer stations, and incinerators, licensed, permitted or approved to receive for processing or final disposal of refuse and dead animals by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals. A disposal site must be consistent with the Ottawa County Solid Waste Management Plan, which has been adopted by Ottawa County pursuant to Act 641, of 1978 (as amended), and all applicable laws, rules, regulations, orders and directives.

SECTION 2.07. GARBAGE. Any and all dead animals or portions thereof less than ten (10) pounds in weight (except, those slaughtered or killed for human use); every accumulation of waste (animals, vegetable and/or other matter) that results from preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, processing, consumption, or decomposition of meats, fish, fowl, birds, fruits, grains, or other animals vegetable matter (including, but not limited to tinned cans and other food containers; and all or easily decomposable waste matter or vegetable matter which is likely to attract flies or rodents); except, in all cases, any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

SECTION 2.08. HAZARDOUS WASTE. Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State of Michigan to be "hazardous" as that term is defined by or pursuant to federal and state laws or regulations.

SECTION 2.09. HOMEOWNER OWNED CONTAINER. A receptacle with capacity greater than 20 gallons but less than 40 gallons, constructed of plastic, metal or fiberglass, having handles or adequate strength for lifting the container when full; and having a tight fitting lid capable of preventing vectors from entering the container. The mouth of the container shall have a diameter which is equal to or exceeds the diameter of the base of the container. The receptacle is owned or supplied by the owner of the structure from which the refuse stored in the container emanates.

SECTION 2.10. PRODUCER. An occupant of a residential unit who generates refuse.

SECTION 2.11. RECYCLABLE MATERIALS. All materials collected for recycling, including, but not limited to the following: newspapers, glass, tin cans, aluminum, polyethylene terephthalate (PET #1), high density polyethylene (HDPE #2) and plastic jugs.

SECTION 2.12. REFUSE. This term shall refer to all residential refuse, rubbish, garbage, bulky waste, construction debris and stable matter generated at a residential unit, unless the context otherwise requires broader or narrower definition.

SECTION 2.13. RESIDENTIAL UNIT. A dwelling within the limits of the Township occupied by a person or group of persons comprising not more than four (4) families. A residential unit shall be deemed to be occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether single or multiple level construction, consisting of four or less contiguous or separate single family units shall be treated as a residential unit.

SECTION 2.14. RUBBISH. All waste, wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, paste board, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

SECTION 2.15. STABLE MATTER. All manure and other waste normally accumulated in or about a stable or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

SECTION 2.16. TOWNSHIP. The term refers to the Jamestown Charter Township, Ottawa County, Michigan.

SECTION 2.17. WASTE HAULER OWNED RECYCLING CONTAINER. A receptacle designed specifically for the storage of recyclables, with a capacity of at least 14 gallons but not greater than 20 gallons, constructed of at least 50% recycled plastic.

SECTION 2.18. WASTE HAULER OWNED TRASH CONTAINER. A receptacle with a capacity of at least 20 gallons, but not greater than 90 gallons, constructed of at least 50% recycled plastic and having a tight fitting lid capable of preventing vectors from entering the container. The mouth of the container shall have a diameter which is at least equal to the diameter of the base of the container.

SECTION 3. GARBAGE, TRASH AND RECYCLABLES COLLECTION. The occupants of all residential structures in the Township shall dispose of all garbage, trash and recyclables generated by their occupancy by either delivering such garbage, trash and recyclables to a sanitary landfill or recycling center themselves, or by having a person licensed pursuant to this ordinance dispose of the garbage, trash and recyclables for them. All garbage shall be stored in a closed, watertight container until it is to be hauled or taken away for disposal; all trash shall be stored in a bag, container, or cart suitable for storing and carrying trash. All of the bags, containers, or carts shall be placed in a location where they are readily accessible for collection, but shall not be placed on a street, parkway, sidewalk or road right-of-way prior to 6:00 p.m. on the day prior to the collection day established by the garbage and trash collector. The bags, containers, and carts shall be removed from the street, parkway, sidewalk or road right-of-way no later than 6:00 p.m. on the day of the garbage and trash collection.

The owner or landlord of a residential building or structure that contains more than four (4) dwelling units shall provide suitable trash cans, containers, dumpster or carts for the use of the occupants and tenants.

SECTION 4. LICENSE REQUIREMENT. It is unlawful for any person, firm or corporation to engage in the business of collecting or hauling garbage, trash or recyclables of another person in the Township unless such person, firm or corporation has first obtained a license therefore from the Township.

SECTION 5. LICENSE APPLICATION. Any person, firm or corporation who desires to engage in the business of collecting or hauling garbage, trash or recyclables or another person in the Township shall make application for a license to do so to the Township. Such application shall contain all pertinent information required under Township Ordinance and include therein the description of all of the equipment to be used, and shall have attached thereto copies of certificates of insurance to the limits specified in this ordinance.

SECTION 6. REQUIREMENTS FOR ISSUANCE. No license shall be issued to any person for the purpose of collecting or hauling garbage, trash, and recyclables unless the applicant is able to demonstrate the ability to comply with the following requirements:

1. To provide pick up service at least once each week to every person in the Township desiring such service and to provide at least one back up vehicle to ensure prompt pick up in case of equipment failure.
2. In insure each truck or piece of equipment against injury to person or property in an amount not less than one hundred thousand dollars (\$100,000.00) for damage to property and not less than three million dollars (\$1,000,000.00) for injury or death to any person and not less than one million dollars (\$1,000,000.00) for injury or death to any person or persons in any single accident. Certificates of such insurance shall be filed with the Township before any license shall be issued.
3. To have lawful access to a properly licensed waste disposal site.

SECTION 7. REQUIREMENTS FOR OPERATION. All persons licenses to collect or haul garbage, trash, or recyclables pursuant to this division shall comply with the following standards and requirements during the term of the license:

1. Maintaining service standards and insurance coverage required for issuance of the license as provided in section 6 of this division and include the Township and its officers and employees as additional insured on such insurance policies and indemnify and hold the Township harmless from any liability claims that may arise as a result of the waste haulers operations for collection hauling of garbage or trash within the limits of the Township.
2. Provide all receptacles, and vehicles used for hauling trash, garbage, or recyclables with metal covers so as to prevent spillage and reduce noxious odors. No open equipment shall be permitted unless it is used under emergency conditions and each such emergency use shall be approved by the Township prior to its use.
3. Compliance with all applicable federal and state statutes and regulations concerning the utilization of garbage and waste hauling equipment in compliance therewith including appropriate licensing and registrations.
4. Provide a sufficient number of trucks, equipment and personnel to perform all services in a prompt and efficient manner so as to not delay the collection of household trash or garbage within the limits of the Township.
5. To at all times identify on the equipment and vehicles utilized to collect the trash, garbage and recyclable in the Township in an open, prominent and visible manner the name and address of the waste hauler and a telephone number where customers can contact the waste hauler or their representative in the local calling area without additional charge for long distance rates.
6. Provide same day collection from each of waste hauler's customers in the Township, all household garage, trash, recyclables and compostables, as hereinafter defined and placed in approved disposable containers or in conventional type trash cans with a capacity not exceeding twenty-six (26) gallons or sixty (60) pounds for each container in weight. The service will be provided not less than once each week and receptacles shall be located by the customer either at curb or street.
 - a. The following items need not be picked by the waste hauler unless special arrangements are made with it by the customer and should not be included in the definition of household garbage or refuse: Tree trunks and stumps, unbagged brush, motor vehicles, motor vehicle parts, large machines, furniture, appliances, bulkier building materials or any other item which due to bulk, will be unusually difficult for the personnel of the waste hauler to load or haul away.
 - b. The waste hauler will serve any customer that desires a special pick up service at a quoted cost based upon the level of service to be provided by the waste hauler to the customer. (So called "volume-based pricing").
 - c. The collection day for the residential pick up in the Township limits shall be designated by the waste hauler to be one day each week. The waste hauler shall not operate its vehicle for purposed

of collection of such trash or refuse from its customers before the hours of 6:00 a.m. local time, or after the hours of 7:00 p.m. local time. If the designated collection day falls on a holiday, the pick up is scheduled for the next following day.

- d. Provided back door pick up service to any customer that is physically unable to bring the trash containers to the curb or street without additional charge. The determination of physical incapacity to be made by the waste hauler except if the customer disagrees with the waste hauler's determination, the Township Supervisor, after consultation with the customer and with the waste hauler will make such determination based on information submitted by the waste hauler and the customer.

SECTION 8. RECYCLING SERVICE. The waste hauler shall develop, implement, maintain and provide a comprehensive curbside recycling program ("Recycling Program") for the Township. The Recycling Program shall be developed with the assistance of a Recycling Committee designated by the Township and further vested with full power to develop, supervise and implement the Recycling Program pursuant to the following standards:

1. The Recycling Program shall be carried out at the same time as the waste hauler provides its curbside collection of household garbage and refuse.
2. Curbside recycling will be provided by the waste hauler through the use of a bag, bin, box or other collection method provided by the waste hauler as part of its monthly service fee to a residential customer and as approved by the Township.
3. The waste hauler in providing this service is deemed to warrant to the Township that all materials collected for recycling will be recycled to the fullest extent possible and as required by the rules and regulations implemented by Township's Recycling Program.
4. The Recycling Program, along with the collection of household garbage and refuse may utilize cart-type containers with a capacity not exceeding 95 gallons in addition to the designated recycling bags, bins or boxes.
5. In addition to compliance with the provisions of this subsection, the waste hauler shall comply with all applicable provisions of the standards set forth in Section 7 of this Ordinance except no tree trunks or stumps need be picked up by a waste hauler, whether intended as trash or garbage, or a recyclable item, unless otherwise agreed to by the waste hauler and the Township.
6. In the event that the waste hauler is unable to recycle the items collected through the Recycling Program, because the materials are in a condition which renders them unfit for recycling, the waste hauler shall dispose of such materials in accordance with applicable law. However, in the event such an unacceptable condition is caused by the negligence, recklessness, or intentional act of the waste hauler (or its employees, agents, or representatives), the waste hauler shall be liable to the Township for the gross market value of such materials as if they were in recyclable condition. In the event the waste hauler is unable to secure a recycler for such Recycling Program because of its refusal to accept any materials collected by reason of the inability to find a viable market for such materials after reasonable efforts, then likewise such materials shall be disposed of in accordance with applicable law. The waste hauler agrees to provide reasonable efforts and resources to locate a viable market for materials collected through the Recycling Program and to furnish certified documentation to the Township on a quarter-annual basis as to the diversion of such recycled material and any promotional activities undertaken by the waste hauler during the year to encourage the implementation of the Recycling Program.

SECTION 9. RATES AND RULES. All persons licensed to collect or haul garbage, trash or recyclables pursuant to this division shall only charge such rates and will be subject to additional rules as are set forth in a rate schedule approved on an annual basis by the Township based upon a proposed rate schedule which shall initially be filed by the waste hauler with its application and as evident by the resolution which established approved rates as adopted on an annual basis by the Township. No increase of rates shall be permitted after a license is issued pursuant to this division and a resolution approving the rates has been adopted, unless the increase has been approved by the Township by subsequent resolution. The proposed rates shall bear a proper relation to the cost of the waste hauler's operation of its waste and of similar services being offered by other operators within the Township limits.

SECTION 10. LICENSE FEES. The annual fee for a license issued pursuant to this division shall be set by the Township resolution of the Township on an annual basis. License Fee \$150.00 annual.

SECTION 11. LICENSE PROCEDURE. The application for issuance, renewal, suspension, revocation, display, and transfer of a license required by this division shall be governed by the Code or Ordinance, of the Township as amended from time to time. The provisions of this division shall be construed to be supplemental to and consistent with the licensing requirements of the Code or Ordinance of the Township except that any higher standard or additional requirement provided by this division shall be in addition to the requirements of such Ordinance.

SECTION 12. LICENSE REVOCATION. In addition to the provisions of Township Code, and the provisions hereof, in the event an alleged violation has occurred with respect to the provisions of this division wherein a waste hauler is alleged to have violated the provisions of any rules and regulations provided herein, the following procedures may be implemented by the Township, or if deemed appropriate by it, by the Township Supervisor, to investigate such alleged violation and to determine the appropriate action to be taken to protect the health, safety and welfare of the inhabitants of the Township.

A preliminary determination shall be made by the Township or a designated representative that a violation has or has not occurred.

1. If it is determined that the alleged violation has occurred in the reasonable judgement of the Township but has not or will not cause an immediate or direct threat to the health, safety and welfare of the inhabitants of the Township, then a letters of reprimand stating the violation shall be forwarded to the waste hauler. Such letter or letter of reprimand shall then be part of the consideration as to whether a license will be renewed. If more than three (3) letters of reprimand have been forwarded to a waste hauler during the term of any license, then the license for such waste hauler shall be deemed revoked thirty (30) days after mailing of such third (3rd) letter unless the waste hauler shall request a hearing in writing before the Township.
 - a. If a hearing is requested by a waste hauler the Township shall permit the waste hauler to show cause why its license should not be revoked, the hearing to be held at the next public meeting, regular or special, after receipt of the waste hauler's request for a hearing.
 - b. After the hearing the Township may determine whether to uphold such revocation or to reinstate the license of the waste hauler. Such determination shall be made at the same meeting the public hearing is held.
2. If such preliminary determination provided for in subsection (1) hereof results in a finding that no apparent violation has occurred, then a written summary of such determination shall be placed in the waste hauler's file maintained by the Township.

SECTION 13. SEVERABILITY AND CAPTIONS. This Ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof is hereby declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remained of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered as part of this Ordinance.

SECTION 14. ADMINISTRATIVE LIABILITY. No officer, agent, employee or member of the Board shall render herself or himself personally liable for any damage that may accrue to any person as a result of any act, decision or other consequence or occurrence arising out of the discharge of her or his duties and responsibilities pursuant to this Ordinance.

SECTION 15. PENALTIES. A person who violates this ordinance shall be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) plus court costs, or by imprisonment in the county jail for a period not to exceed ninety (90) days, or both such fine and imprisonment, in the discretion of the Court. Each act of violation and everyday upon which such violation occurs shall constitute a separate offense. In addition, any violation shall authorize revocation proceedings with respect to any license issued under the provisions of this Ordinance.

SECTION 16. REPEAL. All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the date of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 17. EFFECTIVE DATE. This Ordinance was approved and adopted by the JAMESTOWN CHARTER TOWNSHIP BOARD on November 23, 1992 and shall be effective thirty (30) days after its publication in the manner provided by law.

Effective January 1, 1993