BOROUGH OF NEW CUMBERLAND

COUNTY OF CUMBERLAND
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 715

AN ORDINANCE OF THE BOROUGH OF NEW CUMBERLAND, CUMBERLAND COUNTY, PENNSYLVANIA PROHIBITING THE ACCUMULATION, BURYING AND BURNING OF GARBAGE AND OTHER REFUSE MATERIALS UPON PRIVATE PROPERTY IN SAID BOROUGH, EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS ORDINANCE; REQUIRING THAT ALL GARBAGE, RUBBISH, AND OTHER REFUSE BE CONVEYED TO A TRANSPORTATION, PROCESSING OR DISPOSAL FACILITY; REGULATING THE CARE AND REMOVAL OF GARBAGE, RUBBISH AND OTHER REFUSE MATERIALS AND PROVIDING FOR THE COLLECTION OF GARBAGE, RUBBISH AND OTHER REFUSE MATERIALS ONLY BY PA DEP LICENSED COLLECTORS IN SAID BOROUGH; THE ESTABLISHMENT OF FEES AND CHARGES FOR THE COLLECTION OF GARBAGE, RUBBISH AND REFUSE IN SAID BOROUGH; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, pursuant to the authority vested to the Borough of New Cumberland (Borough) by the Pennsylvania Solid Waste Management Act of 1980 (Act 97), and the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1998), as amended, the Borough is desirous of enacting an Ordinance regulating the storage, collection, and transportation of rubbish, refuse, and garbage in the Borough.

NOW, THEREFORE, the Borough of New Cumberland, Cumberland County, Pennsylvania hereby enacts and ordains as follows:

SECTION 1: SHORT TITLE

This Ordinance shall be known and referred to as the "Solid Waste Ordinance".

SECTION 2: DEFINITIONS

The following words and phrases as used in this Ordinance shall have the meaning ascribed herein, unless the context clearly indicates a different meaning:

Hazardous Waste - means any solid waste or combination of solid wastes, as defined in Act 97 or 101 which because of its quantity, concentration or physical, chemical, or infectious characteristics may: (1) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Industrial Establishment - means any establishments engaged in manufacturing or processing, including but not limited to factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

Institutional Establishments - means any establishment engaged in service, including but not limited to hospitals, nursing homes, orphanages, schools and universities.

Municipal Waste - means garbage, refuse, industrial lunchroom or office waste and other material including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities; and any sludge not meeting the definition of residual or hazardous waste under Acts 97 or 101 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant, or air pollution control facility. The term does not include any source-separated recyclable materials or material approved by the PADEP for beneficial use. Furthermore, the term does not include hazardous waste or residual waste. For the purposes of this Ordinance, the term "Municipal Waste" shall not include infectious and chemotherapeutic waste since all haulers of infectious and chemotherapeutic waste are licensed and regulated by the PADEP under special regulations.

Municipality, also Borough - shall mean the Borough of New Cumberland (Borough), Cumberland County, Pennsylvania

Municipal Waste Landfill -- Any facility that is designed, operated and maintained for the disposal of municipal waste and permitted by the PADEP for such purposes.

Person - means any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or agency, state institution and agency, or any other legal entity which is recognized by law as the subject of rights and duties. In any provisions of this ordinance prescribing a fine, imprisonment or penalty, 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.

Processing - means any technology used for the purpose of reducing the volume or bulk of municipal or residual waste, or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, sludge treatment facilities and resource recovery facilities.

Recycling -- means 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 mechanical separation and treatment of municipal waste (other than

combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

Refuse - means all solid waste materials which are discarded as useless.

Residual Waste - means any garbage, refuse, other discarded material or other waste including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term residual waste shall not include coal refuse as defined in the "Coal Refuse Disposal Control Act". Residual waste shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to "The Clean Streams Law".

Rubbish - means all non-putrescible municipal waste except garbage and other decomposable matter. This category includes but is not limited to ashes, bedding, cardboard, cans, crockery, glass, paper, wood and yard cleanings.

Scavenging - means the unauthorized and uncontrolled removal of material stored or placed at a point for subsequent collection or from a solid waste processing or disposal facility.

Sewage Treatment Residues - shall mean any coarse screenings, grit and de-watered or air-dried sludges from sewage treatment plants and pumping's from septic tanks or septage which are a municipal solid waste and require proper disposal under Acts 97 and 101.

Solid Waste - means any waste, including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

Storage - means the containment of any waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any waste in excess of one year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

Transportation - means the off-site removal of any solid waste at any time after generation.

Transfer Station - means any supplemental transportation facility used as an adjunct to solid waste route collection vehicles.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 3: PROHIBITED ACTIVITIES

1. It shall be unlawful for any person to accumulate or permit to accumulate upon any public or private property within the Borough, any garbage, rubbish, bulky waste, or any other municipal or residual solid waste except in accordance with the provision of this Ordinance, and any Department rules and regulations adopted pursuant to Act 97 and Act 101.

2. It shall be unlawful for any person to burn any solid waste within the Borough except in accordance with the provisions of this Ordinance, and any Department rules and regulations adopted pursuant to Act 97 and Act 101.

3. It shall be unlawful for any person to dispose of any solid waste in the Borough except in accordance with the provisions of this Ordinance and any rules of the Borough or PADEP rules and regulations adopted by Act 97 and Act 101.

4. It shall be unlawful for any person to haul, transport, collect or remove any solid waste from public or private property within the Borough unless the ultimate disposal of this material complies with the requirements of the County Municipal Waste Management Plan, adopted by Cumberland County.

5. It shall be unlawful for any person to scavenge any materials from any solid waste that is stored or deposited for collection within the Borough without prior approval by the Borough.

6. It shall be unlawful for any person to salvage or reclaim any solid wastes within the Borough except at an approved and permitted resource recovery facility under Act 97 and Act 101, and any Department rules and regulations adopted pursuant to these acts.

7. It shall be unlawful for any person to throw, place or deposit, or cause or permit to be thrown, placed or deposited any solid waste in or upon any street, alley, sidewalk, body of water, public or private property within the Borough except as provided in the Ordinance.

8. It shall be unlawful for any person to place a used lead acid battery in mixed municipal solid waste, discard, or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a secondary lead smelter permitted by the Environmental Protection Agency, or to a collection or recycling facility authorized under the laws of this Commonwealth.

9. It shall be unlawful for any municipal waste landfill to accept for disposal, and no resource recovery facility may accept for processing, truckloads composed primarily of leaf waste or plant waste.

SECTION 4: STANDARDS FOR STORAGE OF SOLID WASTE

1. The storage of all solid waste shall be practiced 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 or public nuisances.

2. Any person producing municipal waste shall ensure use of secure containers to store all waste materials generated during periods between regularly scheduled collections and shall place and store all waste materials therein.

3. Any person storing municipal waste for collection shall comply with the following preparation standards:
   a) All municipal waste shall be drained and free of liquids before being placed in storage containers.
   b) All garbage or other putrescible waste shall be securely wrapped in paper, plastic or similar material or placed in properly tied plastic bags.
   c) All cans, bottles or other food containers should be rinsed free of food particles and drained before being place in storage containers.
   d) Garden clippings and tree trimmings shall be placed in approved containers or shall be cut and tied securely into bundles. Bundles shall be not more than four (4) feet in length, not more than two (2) feet in diameter and not more than forty (40) pounds in weight. Such materials may also be composted by the Borough and/or by the property owner.
   e) Newspapers and magazines shall be placed in approved containers or shall be tied securely into bundles of not more than forty (40) pounds in weight, and be recycling whenever possible.
   f) When specified by the Borough or its designated representative, special preparation and storage procedures may be required to facilitate the collection and resource recovery (recycling) of certain waste materials.

4. All municipal waste shall be stored in containers approved by the Borough or its designated representative. Individual containers and bulk container's utilized for storage of municipal waste shall comply with the following standards:
   a) Reusable containers shall be constructed of durable, watertight, rust and corrosion resistant material, such as plastic, metal or fiberglass, in such a manner as to be leak-proof, weather-proof, insect-proof, and rodent-proof.
   b) Reusable containers for individual residences shall have a tight-fitting cover and suitable lifting handles to facilitate collection.
   c) Reusable containers for individual residences shall have a capacity of not less than thirty (30) gallons nor more than ninety-six (96) gallons, and a loaded weight of not more than forty (40) pounds.
   d) Disposable plastic bags or sacks are acceptable containers provided the bags are designated for waste disposal. Plastic bags shall have sufficient wall strength to maintain physical integrity when lifted by the top, shall be securely tied at the top for collection, and shall have a capacity of not more than thirty (30) gallons and a loaded weight of not more than thirty-five (35) pounds.

e) All containers, either reusable or disposable, shall also comply with the minimum standards established by the National Sanitation Foundation.

5. Any person storing municipal waste for collection shall comply with the following storage standards:
   a) Containers shall be kept tightly sealed or covered at all times. Solid waste shall not protrude or extend above the top of the container, except for on a regularly scheduled collection day.
   b) Reusable containers shall be kept in a sanitary condition at all times. The interior of the containers shall be thoroughly cleaned, rinsed, drained and disinfected, as often as necessary, to prevent the accumulation of liquid residues or solids on the bottom or sides of the containers.
   c) Containers shall be used and maintained so as to prevent public nuisances.
   d) Containers that do not conform to the standards of this Ordinance or which have sharp edges, ragged edges or any other defect that may hamper or injure collection personnel shall be promptly replaced.
   e) Containers shall be placed by the owner or customer at a collection point specified by the Borough or its designated representative.
   f) With the exception of pick-up days, when the containers are placed out for collection, the containers shall be properly stored on the owner's or customer's premises at all times. Garbage or refuse containers shall be placed for collection at ground level on the property and it shall be unlawful to permit containers to remain at the curbside along a public right-of-way for periods longer than ten (10) hours prior to or following regularly scheduled collection days.
   g) Bulk waste items such as furniture, automobile parts, machinery, appliances, and tires shall not be stored outdoors and shall only be collected in accordance with current State, Borough, and contracted hauler requirements. Tires, appliances, machinery, automobile parts, furniture, and other items may be exempt from collection requirements and property owners will be responsible for securing alternative disposal measures.

6. The storage of all municipal waste from multi-family residential properties with more than 6 units, commercial establishments, institutions and industrial lunchroom or office waste sources is subject to the regulations and standards set forth in this Ordinance. The type, size and placement requirements for bulk containers shall be determined by the waste generator and the waste hauler, and are subject to approval by the Borough.

SECTION 5: STANDARDS AND REGULATIONS FOR COLLECTION AND TRANSPORTATION

1. The Borough shall provide for municipal collection, or shall designate the contractor or contractors for the collection of all garbage, rubbish, and bulky wastes from individual residences and multi-family residential (6 or fewer units) sources.

2. All residential properties with 6 or fewer units shall utilize the residential collection service designated by the Borough.

3. All commercial, institutional, industrial, establishments and properties containing more than six (6) residential units shall dispose of all Municipal waste through arrangements with a private hauler.

4. All residential garbage and rubbish shall be collected at least once a week. Bulky wastes shall be collected following prior arrangement with the Borough's collector and payment of any required special fees.

5. All multi-family properties with more than 6 units, commercial, institutional, public and industrial lunchroom and office waste sources are not included in municipal collection, however, solid waste shall be collected at least once a week. Rubbish collection from these sources shall be made as often as necessary to control health hazards, odors, flies and unsightly conditions. The Borough reserves the right to require more frequent collection when deemed necessary.

6. Residential collection schedules shall be published regularly by the Borough or its contracted hauler.

7. All solid waste collection activity shall be conducted between the hours of 6:00 a.m. and 6:00 p.m., unless prior approval of any exception has been granted by the Borough. No collection, hauling or transporting of solid waste shall be permitted on Sunday.

8. Private collectors shall comply with the following standards and regulations:
   a) All municipal waste collected within the Borough shall be conveyed by the hauler to a contractually agreed upon processing facility permitted by the PADEP, and designated in the approved *County Municipal Waste Management Plan*, adopted by Cumberland County.
   b) Any trucks or other vehicles used for the collection and transportation of municipal waste must comply with the requirements of Acts 97 and 101, and any Department regulations adopted pursuant of Act 97 and Act 101.
   c) All collection vehicles conveying domestic waste and garbage shall be watertight and suitably enclosed to prevent leakage, roadside littering, attraction of vectors, the creation of odors and other nuisances.
   d) Collection vehicles for rubbish and other non-putrescible solid waste shall be capable of being enclosed or covered to prevent roadside littering and other nuisances.
   e) All solid waste shall be collected and transported so as to prevent public health hazards, safety hazards and nuisances.
   f) All solid waste collection vehicles shall be operated and maintained in a clean and sanitary condition.
   g) No solid waste collection shall be commenced by any person, entity or corporation, including the Borough designated hauler, after 6:00 p.m. nor before 6:00 a.m. on the day designated as the trash collection day, except where conditions beyond the control of the hauler prevent collection.

SECTION 6: COLLECTION AND DISPOSAL CHARGES

1. The governing body of the Borough shall be authorized to make funds available, in accordance with the laws and procedures of the Borough, for the establishment, maintenance, and operation of the municipal solid waste collection and transportation system; or for the contracting of such service to a private collector.

2. It shall be the responsibility of each owner of a dwelling unit benefitted by refuse collection to provide the Borough with, and thereafter keep the Borough continuously advised of, the correct mailing address of such owner. Failure of the owner to receive a bill for charges due and payable shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the net bill shall be payable.

3. Every owner of residential property billed by the Borough shall remain liable for the payment of collection fees and charges, including applicable surcharges and penalties, until the later of (i) the receipt by the Borough of written notice by such owner that the property has been sold, containing the correct name and mailing address of the new owner, or (ii) the date on which title to the property is transferred to a new owner. Failure to provide notice to the Borough renders an owner continuously liable for any charges that may accrue until such time as the Borough has been property notified of any change in ownership as described above.

4. Fees and rates, for collection services provided to residential properties, shall be adopted by the Borough based upon the actual contracted costs of collecting municipal waste within the Borough, plus an administrative fee, as established from time to time by Resolution of Borough Council. The Resolution shall include provisions for penalties on delinquent accounts and exoneration of charges under certain conditions.

5. It shall be the responsibility of the owner of each commercial property or property containing 6 or more residential units to obtain its own refuse collection and disposal service and to make direct payments to the contractor obtained by the owner of each commercial property for the services rendered.

6. All delinquent billed service fees and charges, including penalties, surcharges, legal fees, and court costs, shall be collected by the Borough or a collection company. Policies and procedures for collection of delinquent accounts shall be established by Resolution of Borough Council.

SECTION 7: EXCEPTIONS

1. Nothing in this ordinance shall be deemed to prevent a landowner or occupier from creating and maintaining a compost pile provided it is formed entirely from vegetable wastes, is maintained so as to be digested from aerobic bacteria only, in a manner which neither causes pollution nor is offensive to neighbors of reasonable sensibilities, and consistent with all other Ordinances of the Borough.

2. Nothing in this ordinance shall be deemed to prevent the disposal of agricultural waste upon an active farm, by burning, burial, or composting provided that such disposal is

conducted in a manner not to cause pollution of the air or water, so as not to interfere with neighbor's use of their land, such that it abides by the Municipal Air Pollution Ordinance, if appropriate, and is consistent with all other Ordinances of the Borough.

SECTION 8: PENALTIES

Any person, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction therefor, be sentenced to pay a fine of not more than Three Hundred ($300.00) Dollars and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days; provided, each day's violation of any of the provision of this Ordinance shall constitute a separate offense.

SECTION 9: SEVERABILITY

In the event that any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of such Ordinance shall not be invalidated by such action.

SECTION 10: CONFLICT

Any ordinances or any part of any ordinance which specifically conflict with this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 11: EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption.

ORDAINED AND ENACTED into an Ordinance this 8th day of March, 2023.

Borough Council of the Borough of New Cumberland

BY: _____
Robert P. Kline, President

ATTEST: _____
Nathaniel J. Dysard, Secretary

APPROVED by the Mayor this day of March, 2023.

BY: _____
Thaddeus Eisenhower, Mayor