

**ORDINANCE NO. 3349**  
**INTRODUCED BY: MAYOR JOSEPH P. SCARPELLI**  
**INTRODUCED ON: NOVEMBER 1, 2016**  
**PUBLISHED: NOVEMBER 10, 2016**  
**PUBLIC HEARING: DECEMBER 6, 2016**  
**PUBLISHED: DECEMBER 15, 2016**

**ORDINANCE NO. 3349**

**AN ORDINANCE TO AMEND ORDINANCE 3103 OF THE CODE OF THE TOWNSHIP OF NUTLEY, ENTITLED SOLID WASTE; RECYCLING, AND MORE SPECIFICALLY, CHAPTER 614, ARTICLE I, RECYCLING**

**WHEREAS**, The Board of Commissioners for the Township of Nutley adopted Ordinance #2040 on June 16, 1981 and amended in its entirety on June 9, 2009 by Ordinance #3103, ; and

**WHEREAS**, the County of Essex recommends modifications to the current Township Recycling Ordinance in order to be in compliance with State of New Jersey Recycling Regulations; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the Township of Nutley in the County of Essex, State of New Jersey that Chapter 614-1 of the Code of the Township of Nutley, is replaced to read as follows:

Municipal Source Separation and Recycling Ordinance

**ARTICLE I - RECYCLING (§ 614-1.1 - § 614-1.16)**

**§ 614-1.1 DEFINITIONS**

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

**COMMINGLED** - A combining or non-putrescible source-separated recyclable materials for the purpose of recycling

**COMMERCIAL SOURCE** - Wholesale, retail, service or manufacturing establishments, including but not limited to restaurants, markets, offices, retail and wholesale outlets, industrial establishments and theaters.

**DESIGNATED RECYCLABLE MATERIALS** – Those materials designated within the Essex County District Solid Waste Management Plan and by the Township of Nutley through this Municipal Source Separation and Recycling Ordinance to be source separated for the purpose of recycling. These materials include:

**ALUMINUM** - All disposable containers made and fabricated of aluminum and most commonly used to contain soda and beer.

**ALUMINUM BEVERAGE CONTAINERS** - Includes all containers normally used in the consumption of alcoholic and nonalcoholic beverages both in the home and in retail

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establishments dispensing the same for on- or off-premises consumption, the same being made entirely of aluminum.

**BIMETAL (Tin/Steel) CANS-** Aluminum and tin or tin-plated steel food and beverage containers, including those for fruits, vegetables, juices and pet food.

**BATTERIES**

- A. **LEAD ACID BATTERIES** – Are the types that contain lead and lead oxide with the sulfuric acid electrolyte produces a voltage. Used in vehicles such as automobiles, motorcycles, boats, etc., and composed primarily of lead plates in sulfuric acid.
- B. **HOUSEHOLD DRY CELL BATTERIES** - Comprise various types such as Mercury, Silver, Oxide, NiCad, Alkaline, Carbon Zinc, Lithium, etc.

**CORRUGATED CARDBOARD-** A type of paper in which a portion has been made to have a wavy surface (alternating ridges and grooves) and is placed between two flat surfaces for the sake of strength and which is commonly used to form cartons for shipping and delivering of commercial materials, foods, appliances, business machines, etc.

**OLD CORRUGATED CONTAINERS** - All corrugated cardboard of the type commonly used for boxes, shipping containers and packing material having exterior cardboard plies separated by air spaces created by one or more fabricated cardboard plies.

**ELECTRONIC WASTE-** Computers and associated hardware including keyboards, modems, printers, scanners and fax machines; TV's, telephones, cell phones, VCR's, DVD Players, Stereos and microwaves;

**FERROUS SCRAP-** Is scrap metal that is magnetic and rusts such as structural steel or cast iron components.

**GLASS** - Products used as bottles, jars and other glass containers made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packaging or bottling of various matter or liquid, and all other material commonly known as "glass"; excluding, however, blue glass and flat glass, commonly known as "window glass," and mirrors.

**GLASS FOOD AND BEVERAGE CONTAINERS** - All containers and objects commonly used in residential and nonresidential premises, such as bottles, jars, glasses, jugs and all other vessels made entirely and exclusively of glass.

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**GRASS CLIPPINGS** - Organic material from the mowing of lawns.

**LEAVES** – Foliage material naturally formed from trees and brushes that are suitable for composting and mulching. Excluded are grass clippings, plant and flower clippings, branches, yard debris or any items other than tree leaves.

**MOTOR OIL** - Oil used in vehicle engines primarily for lubrication of engine parts that is not contaminated with water or any other abnormal items.

**USED MOTOR OIL** - Any waste crank case oil from periodic maintenance of internal combustion engines.

**MIXED PAPER**- All newspaper, fine paper, bond paper, office paper, magazines, paperback books, school paper, catalogs, computer paper, telephone books and similar cellulosic material, whether shredded or whole.

**MIXED OFFICE PAPER**- A combination of paper products found in an office environment, typically, it means high-grade papers such as copier paper, computer printout, and stationery. It also includes magazines, catalogs, brochures, white envelopes, advertising flyers and most mail.

**NEWSPAPER** - Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matter of public interest. Expressly excluded are all magazines or similar periodicals, phone books and junk mail as well as all other paper periodicals of any nature whatsoever.

**OFFICE PAPER**- High-grade papers generally used in offices that are of high quality and do not have a glossy finish, including but not limited to computer, letterhead, ledger and photocopy paper.

**PLASTICS/PLASTICS CONTAINERS**- Bottles and containers made from a light-weight man-made resin of various colors. Most bottles are coded with a number from "1" to "7" in a triangle located on or near the bottom of the container. The majority of "plastic" is PET No. 1 (soft drink and liquor bottles) and HDPE No. 2 (milk, water, juice, detergent, bleach, etc.) containers.

**WHITE GOODS**- Large metal appliances such as, but not limited to refrigerators, air conditioners, stoves, freezers, washers, dryers, water heaters, ranges, dishwashers, furnaces, metal lawn furniture, bicycles, steel or cast-iron plumbing fixtures etc.

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**STEEL/TIN CONTAINERS-** All disposable containers made and fabricated of one or more metals (i.e. Steel or Tin) and used to store food and beverages.

**INSTITUTIONAL SOURCES -** Churches, synagogues, colleges, schools, municipal or municipally supported bodies, not-for-profit organizations and the like.

**MULTIFAMILY/DWELLING SOURCE -** Any building or structure, or complex of buildings in which three (3) or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see N.J.S.A. 13:1E-99.13a) and shall include hotels, motels, or other guest houses serving transient or seasonal guests, as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C.55:13A-1 et seq.).

**MUNICIPAL RECYCLING COORDINATOR-** Person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder.

**MUNICIPAL SOLID WASTE (MSW) STREAM-** All solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of Nutley;

**RECYCLABLES-** All items as designated by the Essex County Recycling Plan, dated December 13, 1988, and adopted January 25, 1989, or as amended, by requirement of the Statewide Mandatory Source Separation and Recycling Act (P.L. 1987, c. 102)Editor's Note: See N.J.S.A. 13:1E-99.11 et seq.or any other items designated by Township regulation.

**RECYCLABLE MATERIAL-** Those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products;

**RESIDENTIAL SOURCE-** Homes, condominiums, townhouses and other dwelling units not defined as multi-family, commercial or institutional sources.

**SOURCE-SEPARATED RECYCLABLE MATERIALS-** Recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

**SOURCE SEPARATION-** The process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

**SOLID WASTE-** All garbage and rubbish normally collected by regular curbside pickups from residents of the Township.

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**PERSON**-Both plural and singular, as the case may demand, and includes corporations, partnerships, firms, societies and associations, as well as individuals.

**§ 614-1.2 ESTABLISHMENT AND HISTORY OF PROGRAM**

- A. There is hereby established a program for separation of recyclables from solid waste on a mandatory basis within the Township for the purpose of recycling.
- B. Nutley's original recycling ordinance, Ord. No. 2040, was adopted on June 16, 1981, and only mandated newspapers. Glass and aluminum were added on October 6, 1981, by Ord. No. 2060. On June 9, 2009, Nutley's Recycling Ordinance was amended by Ord. 3103. This revised chapter covers all currently mandated recyclables and conforms to P.L. 1987, c. 102.

**§ 614-1.3 MANDATORY SOURCE SEPARATION**

There is hereby established a program for the mandatory source separation from the municipal solid waste stream by the single-family and multi-family residential, commercial, office park, industrial, institutional and government solid waste generators of the Township at the point of generation for the following items:

<b>RESIDENTIAL:</b>	<b>COMMERCIAL:</b>	<b>INSTITUTIONAL:</b>
<i>Newspapers</i>	<i>Newspapers</i>	<i>Newspapers</i>
<i>Glass food and beverage containers</i>	<i>Glass food and beverage containers</i>	<i>Glass food and beverage containers</i>
<i>Aluminum beverage containers</i>	<i>Aluminum beverage containers</i>	<i>Aluminum beverage containers</i>
<i>Leaves</i>	<i>Leaves</i>	<i>Leaves</i>
<i>Old corrugated containers</i>	<i>Old corrugated containers</i>	<i>Old corrugated containers</i>
<i>Mixed paper (i.e. junk mail, office paper, all marketable grades)</i>	<i>Office paper (all marketable grades)</i>	<i>Office paper (all marketable grades)</i>
<i>Used motor oil</i>	<i>Used motor oil</i>	<i>Used motor oil</i>
<i>White goods</i>	<i>White goods</i>	<i>White goods</i>
<i>Lead acid batteries (vehicle batteries)</i>	<i>Lead acid batteries (vehicle batteries)</i>	<i>Lead acid batteries (vehicle batteries)</i>
<i>Plastics (#1 thru #7)</i>	<i>Plastics (#1 thru #7)</i>	<i>Plastics (#1 thru #7)</i>
<i>Steel/Tin Containers</i>	<i>Steel/Tin Containers</i>	<i>Steel/Tin Containers</i>
<i>Ferrous Scrap</i>	<i>Ferrous Scrap</i>	<i>Ferrous Scrap</i>

Also, such other recyclable materials to be added or deleted as designated recyclables by the County of Essex pursuant to a duly adopted amendment to the County Solid Waste Management Plan approved by the New Jersey Department of Environmental Protection.

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It shall be mandatory for all persons who are owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Municipality of Nutley, to separate designated recyclable materials from all solid waste.

Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises and shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Township of Nutley Department of Public Works.

**§ 614-1.4 COLLECTION AND DISPOSAL OF RECYCLABLE MATERIALS**

- A. All recycling containers containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk within the property owners boundaries, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. Receptacles or other items to be recycled shall be placed as noted above anytime after 5:00 PM of the day immediately preceding the day of collection, but no later than 7:00 AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 PM of the day of collection.
- B. It is the responsibility of the owner or occupant of the premises to keep all receptacles and/or dumpsters in a clean and safe manner or in accordance with the Health Code of the Municipality of Nutley.
- C. Used motor oil (up to five gallons a day a person) shall be brought to any Division of Motor Vehicle inspection station, oil retailer or retail service station which has a used oil collection tank existing on the premises or to any site which accepts used oil for recycling (N.J.A.C. 14A:3-11).
- D. All recycling material listed in the definition section under Designated Recyclable Materials may be recycled using private authorized and licensed recycling companies by each commercial and institutional establishment.
- E. At the option and expense of persons required to separate recyclables from solid waste under this article, the recyclables may be disposed of by any other lawful means, including but not limited to contributions to charitable recycling drives or for use in private composting, provided that in no event shall recyclables be disposed of as part of solid waste.

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**§ 614-1.5 RESIDENTIAL DWELLING COMPLIANCE REQUIREMENTS**

The owner of any residential property in the Township of Nutley shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the Department of Public Works. Violations and penalty notices will be directed to the property owner or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every six (6) months during their occupancy.

**§ 614-1.6 NON-RESIDENTIAL ESTABLISHMENT COMPLIANCE REQUIREMENTS**

- A. All commercial, institutional and industrial generators of solid waste within the Township of Nutley shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoor litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. All food service establishments, as defined in the Health Code of the Municipality of Nutley, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

**§ 614-1.7 DESIGN STANDARDS**

New Developments of Multi-Family Residential Units or Commercial, Institutional or Industrial Properties (Pursuant to N.J.S.A. 13:1E-99.13a and 99.16c.) shall comply with the following:

- A. Any application to the planning board of the municipality of Nutley, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:
  - a. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and

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- b. Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.
- B. Prior to the issuance of a Certificate of Occupancy by the municipality of Nutley, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.
- C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

**§ 614-1.8 COLLECTION OF SOLID WASTE MIXED WITH RECYCLABLE MATERIALS PROHIBITED.**

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local municipal health code.

**§ 614-1.9 CURB PLACEMENTS TO BECOME TOWNSHIP PROPERTY**

Once recyclables are placed at the curb for collection by the Township of Nutley Department of Public Works or its authorized agent(s), pursuant to the rules and regulations promulgated hereunder, such recyclables shall become and be the property of the Township of Nutley Department of Public Works. It shall be a violation of the provisions of this article for any person not authorized by the Township of Nutley Department of Public Works to collect or pick up recyclables for any purpose whatsoever. Any and each such collection or pickup in violation hereof from one or more premises shall constitute a separate and distinct offense punishable as hereinafter provided.

**§ 614-1.10 DOCUMENTATION REQUIRED**

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- A. Every commercial, institutional, or industrial facility within the Township of Nutley as well as all recycling firms collecting recyclables from Nutley establishments must submit to the Municipal Recycling Coordinator on an annual basis, on such forms as may be prescribed, all recycling activities at their premises, including accurate weight slips with the amount of recycled material, material type collected and recycled and the vendor or vendors providing recycling service.
- B. Documentation will be at no charge to the Township of Nutley and must satisfy state requirements for eligibility for state tonnage grants. Documentation for each calendar year must be submitted no later than March 1 of the following year. Anyone not complying shall be subject to the penalties provided in § 614-1.13.

**§ 614-1.11 AUTHORIZATION TO ISSUE REGULATIONS**

The Department of Public Works is hereby authorized and directed to establish and promulgate rules and regulations as to the manner, days and times for the collection of recyclables in accordance with the provisions hereof, such rules and regulations to become effective upon adoption by resolution of the Board of Commissioners.

**§ 614-1.12 ENFORCEMENT**

The provisions of this ordinance shall be enforced by an authorized representative of the Department of Public Works, Municipal Recycling Coordinator and/or Essex County Department of Health. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

**§ 614-1.13 VIOLATIONS AND PENALTIES**

- A. Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a minimum fine of \$250 and a maximum fine of \$1000 or by imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment. Each day for which a violation of this Ordinance occurs shall be considered a separate offence for each offense.
- B. Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent.) Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program, including educational programs, training, equipment and as further deemed appropriate to enhance the recycling program by the Municipal Recycling Coordinator.

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**§ 614-1.14 EXEMPTIONS**

- A. Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials.

To be eligible for an exemption pursuant to this section, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

- B. Persons who are handicapped and are unable to recycle should send written requests along with medical documentation of the incapacitation to the Municipal Recycling Coordinator.
- C. Commercial and institutional establishments may request an exemption only if the nature of the business is such that the designated recyclables are contaminated and unfit for recycling.
- D. All requests for exemptions are to be sent to the Municipal Recycling Coordinator and if granted, a written exemption will be sent to the applicant. The Municipal Recycling Coordinator will send copies of all reports and exemptions to the County Recycling Coordinator.

**§ 614-1.15 EFFECT ON OTHER LEGISLATION; SEVERABILITY**

- A. This Ordinance shall supersede and replace Ordinance 3103 Chapter 614 Section 1 through 9.

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- B. Each section, subsection, sentence, clause and phrase is declared to be an independent section, subsection, sentence and phrase. In the event that it is determined by a Court of competent jurisdiction that any provision or portion of this Ordinance is unconstitutional, void or ineffective for any cause or reason, all other sections and provisions shall remain in full force and effect.

**§ 614-1.16 EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

This Ordinance shall take affect after publication and passage according to law.

**ATTEST:**

\_\_\_\_\_  
**Township Clerk**

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**Mayor Scarpelli**

\_\_\_\_\_  
**Commissioner Petracco**

\_\_\_\_\_  
**Commissioner Evans**

\_\_\_\_\_  
**Commissioner Tucci**

\_\_\_\_\_  
**Commissioner Rogers**