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ORDINANCE 4-12

AN ORDINANCE AMENDING SECTION 16-6, MANDATORY SEPARATION OF RECYCLABLE MATERIALS FOR COLLECTION AND RECYCLING, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT

WHEREAS, the Borough of Keyport has an established recycling program implemented pursuant to the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq. and the Monmouth County Solid Waste Management Plan ("the County Plan"), which is codified at Section 16-6 of the Revised General Ordinances of the Borough of Keyport; and

WHEREAS, the Mayor and Council of the Borough of Keyport have reviewed and analyzed the updated version of the Monmouth County Solid Waste Management Plan and seek to incorporate the changes into the Borough's ordinances; and

WHEREAS, the Borough Council is further authorized by N.J.S.A. 40A:60-7(d) to create advisory councils to the municipality as it may deem beneficial to the Borough of Keyport; and

WHEREAS, the Borough of Keyport has long established and maintained, by Resolutions Nos. 140-92 and 54-02, a Recycling Committee comprised of the Recycling Coordinator, the Deputy Recycling Coordinator, and volunteer members who reside in the Borough of Keyport; and

WHEREAS, the Mayor and Council have determined that it is necessary to confirm the establishment and continued maintenance of the Recycling Committee by Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Keyport as follows:

SECTION I. Amendments to Borough Ordinance 16-6.

Borough Ordinance 16-6 is hereby amended and revised to read as follows:

16-6 MANDATORY SEPARATION OF RECYCLABLE MATERIALS FOR COLLECTION AND RECYCLING.

16-6.1 Purpose

With the passage of the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq. in 1987, the State Legislature mandated that every municipality require the recycling of marketable solid waste materials in accordance with county recycling plans. Thereafter, Monmouth County amended its

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Solid Waste Management Plan to contain certain mandatory provisions for municipal recycling programs and the ordinances governing such programs.

The Borough of Keyport is committed to the implementation of an effective municipal solid waste management program that includes source separation and recycling in a reasonable and cost effective manner that maximizes recycling and reduces the amount of solid waste disposal, in compliance with current State and County recycling requirements. To that end, the Borough has established a mandatory program for the separation of recyclable materials from collection and recycling.

Through its authority under N.J.S.A. 40A:60-7(d) to create advisory councils, the Borough of Keyport hereby confirms the establishment of the Recycling Committee, which, in furtherance of its recycling program, shall have the duties and engage in the activities as described herein.

16-6.2 Definitions. Consistent with the definition set forth in Section 16-5.2, *Recyclable Materials* shall mean those materials identified for mandatory separation and recycling by any state, county or municipal statute, ordinance or regulation including, but not limited to, aluminum, batteries, corrugated cardboard, glass, high grade paper, junk mail, leaves, newspapers, plastic containers, tin and bi-metal cans, tires and white goods, as those terms are defined below:

Aluminum shall mean and include all disposable items made of aluminum including aluminum containers used for soda, beer or other beverages, foil, wrappers, containers for prepared food, screen frames, and lawn chairs.

Batteries shall mean automotive and button cell (e.g., watch, calculator, hearing aid) batteries.

Corrugated cardboard shall mean cardboard of the type used to make cardboard boxes, cartons, pasteboard and similar corrugated and craft paper material.

Glass shall mean all products made from silica or sand, soda ash and limestone; the product being transparent or translucent and being used for packaging or bottling of various matters excluding, however, blue or flat glass commonly known as window glass.

High grade paper shall mean white and/or off-white stationery, photocopy and computer paper.

Junk mail shall mean paper products, particularly with glossy print or color finishes such as magazines, catalogues, advertising mail, brochures, and envelopes with or without windows.

Leaves shall mean all foliage from trees and shrubs and shall be separated for collection in accordance with Borough Ordinance 16-5.9.

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Newspapers shall mean paper of the type commonly referred to as newsprint. Expressly excluded are all magazines, periodicals, books, and paperbacks, as well as all other paper products of any nature whatsoever.

Plastic containers shall mean all Polyethylene Terphthalate (PET) or High Density Polyethylene (HDPE) type containers including, but not limited to, those used for milk, water, laundry detergent and soda/beverages.

Tin and bi-metal cans shall mean all disposable items made of tin, steel, or a combination of metals including containers commonly used for the storage of food products.

Tires shall mean rubber tires without metal rims as specifically listed in the Schedule of Charges for Recycling of Tires as subsection 16-7.1 herein.

White goods shall mean all large metal appliances such as refrigerators, freezers, washers and dryers. White goods are also referred to as “white metals” in Section 16-5..

All other terms defined in Section 16-5.2 shall have the same meaning in this Section 16-6.

16-6.3 General Requirements

a. All owners, lessees and occupants of residential property, except those exempted by reason of physical disability, and all owners, lessees and occupants of business and industrial property and of private, public and governmental institutions and buildings shall separate glass bottles and jars, aluminum, leaves, newspapers, white goods, batteries, asphalt shingles, corrugated cardboard and/or high grade paper, tires, bulk items, brush and tree parts, tin and bi-metal cans, plastic containers excluding those for motor and cooking oil, and all junk mail, from all other solid waste produced by the residents and nonresidential establishments for collection and ultimate recycling of same.

b. On an annual basis, any businesses, schools, institutions and multi-family housing complexes not served by recycling collection programs of the Borough of Keyport shall provide the Borough Recycling Coordinator, in writing, with the name and address of the company providing solid waste and recycling collection services and shall inform the recycling coordinator of any change in same within thirty (30) days of such change. It shall be the responsibility of the entities providing solid waste and recycling collection services to provide, at a minimum, the weight receipts and/or letters on official company stationery clearly describing the quantity and disposition of such material to the Borough of Keyport. This information is to be

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provided on a quarterly basis within thirty (30) days following the close of each quarter. Any entity that fails to make a submission required by this subsection shall be subject to the penalties proscribed as follows:

1. One thousand ($1000.00) dollars for the first offense;

2. One thousand five hundred ($1500.00) dollars for second and subsequent offenses.

A complaint alleging a violation of any such reporting requirement and seeking such fines may be filed in the Municipal Court.

c. Businesses or institutions hauling their own recyclables shall provide the Borough Recycling Coordinator with quarterly reports on the quantity and destination of recyclables. All businesses located and transacting business within the Borough of Keyport generating recyclable materials shall file a quarterly recycling report, which consists of a questionnaire to be provided by the Borough of Keyport to all affected businesses. Failure to submit a completed recycling report within ten (10) days of the deadline stated thereon shall subject the entity required to submit such a report to the penalties prescribed as follows:

1. One thousand ($1000.00) dollars for the first offense;

2. One thousand five hundred ($1500.00) dollars for second and subsequent offenses.

A complaint alleging a violation of any such reporting requirement and seeking such fines
may be filed in the Municipal Court.

d. The appropriate officials of the Borough of Keyport shall issue construction and/or demolition permits only after the applicant has identified disposal and recycling arrangements. The applicant shall provide appropriate records documenting the quantity and disposition of all materials.

A deposit of fifty ($50.00) dollars shall be required upon issuance of a construction and/or demolition permit and held until such time as documentation of the quantity and disposition of all materials is produced to the satisfaction of the municipality.

The Construction Code Official shall have the discretion to grant exemptions to small quantity generators engaged in minor home improvements.

e . In accordance with existing State regulations (N.J.A.C. 14A:3-11), all service stations, oil retailers and motor vehicles re-inspection stations, with used oil holding tanks shall accept up to five (5) gallons at a time of used motor oil from

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individuals changing oil from cars, lawn mowers or motorcycles and shall post a sign informing the public that they are a "Used Oil Collection Site".

f. On or after January 1, 2010, pursuant to the “Electronic Waste Management Act,” N.J.S.A. 13:1E-99.94 et seq., computers, monitors, televisions, telephones or related electronic hardware, defined in that Act as a “covered electronic device” may not be disposed as solid waste. They must be recycled.

g. No liquids of any type, including, but not limited to, chemicals, paints, pesticides, herbicides, reactive polishes or cleansers, cleaning or automotive products may be placed with recyclables or solid waste for disposal (“hazardous waste exclusion”).

h. Any fair, convention or other special event, whether held indoors or outdoors and sponsored by public or private agencies, is required to provide appropriate labeled containers for all solid waste and/or recyclables reasonably expected to be generated and discarded by vendors, participants or other visitors to that event, and arrange for its proper disposition.

i. Any business or institution is required to inform its employees and/or cleaning service which is responsible for the collection and disposition of solid waste and recyclables generated at the business or institution of the proper method of disposal of solid waste and recyclable materials.

j. The private company or public agency providing dumpsters, rolloff containers or any other waste containers to business, institutions, demolition job sites for pickup by the collector-hauler shall be responsible for clearly marking such containers as “trash” or for specific “recyclables”, as may appropriate.

k. Any business manufacturing or selling products made of or packaged in any item mandated for recycling must provide labeled and accessible containers for recycling to employees and customers and arrange for its proper disposition.

l. All apartment, other multifamily complexes, schools, businesses and institutions are required to provide labeled and accessible recycling containers for all residents, employees, students, customers and other visitors in all buildings and facilities, and arrange for its proper disposition.

m. Designated recyclables shall be placed in fixed-contour containers equipped with secure tight-fitting covers and shall be of an approved type with handles and tapered sides. The owner or manager of a property containing more than one unit shall be responsible for clearly marking each container as a depository for Recyclables and by numbers or letters at least one half (½) inch wide by six (6) inches high to identify the unit whose recyclables it contains. The total capacity of each such container shall not exceed fifty (50) gallons. The loaded weight of each container and its contents shall not exceed fifty (50) pounds. Recyclables in plastic bags or non-compliant containers shall not be collected. This section shall not

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apply to properties utilizing a dumpster(s) or other receptacle(s) located in central collection sites.

16-6.4 Additional Recycling Requirements.

All residents, owners, lessees or occupants of property in the Borough of Keyport shall comply with the regulations and schedules established by the Mayor and Council for the collection of the recyclable materials set forth in Section 16-6 in accordance with the following guidelines:

a. All recyclable materials and white goods, for which a permit may or may not be required, as defined in Sections 16-6 and 16-7, shall be delivered to the curbline not sooner than 4:00 p.m. of the day prior to the scheduled collection date.

b. Pursuant to the "Electronic Waste Management Act," N.J.S.A. 13:1E-99.94 et seq., no person shall knowingly dispose of a covered electronic device, as defined by that Act, or any of the components or subassemblies thereof, as solid waste and all covered electronic devices must be recycled in a manner that is in compliance with all applicable federal, State and local laws, regulations and ordinances.

c. In the case of white goods, such as refrigerators and freezers, all doors must be detached and separated from the appliance prior to the delivery of the material to the curbline. Both the refrigerator or freezer and the detached door shall be considered one item for bulk collection.

d. It shall be the responsibility of the owner, lessee, occupant or resident seeking to dispose of certain household appliances, often referred to as white goods or white metals, such as refrigerators, freezers and air conditioners, which contain Freon, to obtain a permit as required pursuant to Section 16-7.2 of this Chapter. Permits may be obtained from the office of the Borough Clerk during normal business hours.

e. No owner, lessee, occupant or resident shall place recycling or white goods for disposal prior to 4:00 p.m. of the day prior to the scheduled pick-up date.

f. Any owner, lessee, occupant or resident who improperly places recycling or white goods on the curbline of the streets of the Borough of Keyport prior to 4:00 p.m. of the day prior to the scheduled pickup shall be subject to a violation and penalty in accordance with the provisions of this Chapter. Any owner, lessee, occupant or resident who improperly places recycling or white goods on a date not scheduled for their pickup, shall within twenty four (24) hours remove the recycling or white goods item from the curbline to the proper storage area on their property until the regularly scheduled pick-up. Failure to do so will result in a violation of the within Section and penalties in accordance with the provisions of this Chapter.

16-6.5 Recycling Coordinator

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a . The positions of Recycling Coordinator and Deputy Recycling Coordinator are hereby created and established within the Borough.

b. The Recycling Coordinator and Deputy Recycling Coordinator shall be appointed by the Mayor and Council for a term of one (1) year expiring December 31 of each year. The term of the person first appointed as Recycling Coordinator and Deputy Recycling Coordinator shall expire December 31 of the year of that person's appointment.

c. The Recycling Coordinator, subject to the approval of the Mayor and Council, shall establish and promulgate reasonable rules and regulations as to the manner, days and times for the collection, sorting, transportation, sale and/or marketing of the recyclable material in order to encourage the preservation of material resources while minimizing the cost of the recycling program to the Borough. The Recycling Coordinator's duties shall further include, without limitation, the preparation of such annual or other reports as required by State or County agencies regarding local solid waste and recycling programs, reviewing performance of local schools and municipal agencies in conducting recycling activities, periodic review and submitting recommendations on local subdivision and site plan submittals and local construction and demolition projects for appropriate solid waste and recycling provisions, reports to the Borough Council on the implementation and enforcement of the provisions of this Ordinance, and such other reports or responsibilities as may be requested by the Borough Council.

d. The Deputy Recycling Coordinator shall assist the Recycling Coordinator in the performance of the duties prescribed for that position and shall act as Recycling Coordinator in the absence of same.

16-6.6 Recycling Committee

a. There shall be a Recycling Committee, an advisory committee established pursuant to N.J.S.A. 40A:60-7(d), comprised of up to nine (9) members and one alternate as follows:

Title	Term
Recycling Coordinator	One (1) Year
Deputy Recycling Coordinator	One (1) Year
Council Liaison	One (1) Year
Department of Public Works Liaison	One (1) Year
Five (5) Resident Citizen Members	Three (3) Years
One (1) Resident Citizen Alternate	One (1) Year

The Department of Public Works Liaison may also serve as Recycling Coordinator or Deputy Recycling Coordinator in which case the Recycling Committee will consist of eight members. Otherwise, it will consist of nine members.

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b. The term of each member shall commence on January 1 and expire on December 31 of the final year of the term.

c. The initial terms of the Resident Citizen Members appointed in the year 2012 shall be staggered so that those terms commence and expire in successive years, as follows: 2, 2, 1.

1. There shall be two (2) Resident Citizen Members who shall have initial terms expiring on December 31, 2012.

2. There shall be two (2) Resident Citizen Members who shall have initial terms expiring on December 31, 2013.

3. There shall be one (1) Resident Citizen Member who shall have an initial term expiring on December 31, 2014.

All persons appointed to terms that begin after 2012 shall have three-year terms, except that vacancies will be filled for the unexpired term only.

d. The powers and duties of the Recycling Committee shall be as follows:

1. Make recommendations to the Mayor and Council concerning the management and promotion of materials recycling in or by the Borough of Keyport, and other issues bearing upon the concerns of this committee;

2. Undertake such projects and activities pertaining to recycling and related environmental and public safety concerns that the Mayor and Council may allow, authorize or direct. Such projects and activities may include the preparation of public notices issued by the Mayor and Council, pursuant to N.J.S.A. 13:1E-99.16(f), to notify, at lease every six (6) months, all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the Borough's recycling program; and

3. Provide an annual report of its activities and projects to the Mayor and Council at the end of each calendar year.

16-6.7 Collection by Authorized Persons. The Mayor and Council may use municipal personnel to collect recyclable material at curbside and/or from a drop-off center and shall sell the recyclable material if a market exists therefor pursuant to N.J.S.A. 40A:11-1 et seq.

The Mayor and Council may elect to enter into agreements with qualified persons or corporations authorizing them to collect the recyclable materials at curbside or from a drop-off center and to sell the recyclable material provided the amount of money realized exceeds the cost of collection. Only owners, lessees or occupants of residential

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or nonresidential property located within the Borough may deposit material at the drop-off center or deposit recyclable material at curbsides within the Borough.

16-6.8 Collection by Unauthorized Persons Prohibited. Recyclable material as defined herein shall be the property of the Borough once placed on the curbside or brought to a drop-off center.

Residents, businesses and institutions within the Borough of Keyport may use only those recycling haulers and/or facilities registered with the County of Monmouth. It shall be a violation of this section for any person unauthorized by the Mayor and Council to pick up or cause to be picked up, recyclable material as defined herein. Failure to comply with this provision will result in an initial warning; any non-compliance after the initial warning shall result in penalties as authorized and provided for in subsection 16-6.12 of this section.

16-6.9 Direct Disposal of Recyclable Material by Resident. Anything herein to the contrary notwithstanding, any person, partnership or corporation who is owner, lessee or occupant of a residential or nonresidential property, may donate or sell the recyclable material as defined herein, to any person, partnership or corporation whether or not operating for profit. The person, partnership or corporation, however, shall not pick up the recyclable materials at curbside or at a drop-off center.

16-6.10 Inspections; Enforcement. The Recycling Coordinator, the Deputy Recycling Coordinator, the Property Maintenance Official, the Building Department, the Recycling Enforcement or Solid Waste Enforcement Officer, the Health Inspector and the Police Department of the Borough, and the Monmouth County Health Department are hereby individually and severally empowered to inspect solid waste and recycling arrangements and compliance at local residences, businesses, schools and institutions, and to enforce the provisions of this Ordinance, including through the issuance of summonses and complaints. Inspections may include sorting through curbside containers and opening bagged solid wastes to detect the presence of any recyclable materials.

Whenever such an official determines that there has been a violation of any provision of this Chapter, he or she may issue a summons or he or she may give notice of the violation to the person or persons or entities responsible under this Chapter. Such notices shall be in writing and shall include a concise statement of the reasons for issuance.

Such notice shall be deemed properly and sufficiently served if, either:

a. a copy thereof is sent by registered or certified mail to the last known address of the person or entity upon which the same is served, as shown on the current tax records of the Borough of Keyport;

b. a copy thereof is handed to said person or to their tenant, lessee, agent, servant, employee, family member or occupant at that location of the within violation; or

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c. a copy thereof is left at the usual place of abode or office of said person or entity or at the location where the violation has taken place.

Notice shall be given as aforesaid, within or without the Borough. The notice shall also state that, unless the violation is abated, removed cured or prevented within two (2) days of the date of service of such notice (exclusive of the date of service), a summons shall be issued for such violation. The official may at the time he or she issues the notice, extend the period for compliance for the violation stated for a period not to exceed ten (10) additional days, if, in his or her judgment, the abatement, removal or cure of the condition violated cannot be reasonably effected within the two day period. In the event the violation is not abated, removed, cured or prevented within the period of time specified herein, a summons shall issue against the person, persons, entity or entities so notified.

16-6.11 Responsibilities of Owners, Lessees and Occupants. Owners, lessees and occupants shall jointly and severally have all the duties and responsibilities prescribed in this Chapter and shall not be relieved from any such duties and responsibilities nor be entitled to defend against any charge or violations thereof by reason of the fact that another party may also be responsible therefore and in violation thereof. Responsibilities of owners, lessees or occupants shall not be altered or affected by any agreement or contract by and between any of them or between them and other parties.

16-6.12 Violations and Penalties. Except as otherwise provided in this Section 16-6, any person, firm or corporation who violates or neglects to comply with any provision of this section or any rule or regulation promulgated pursuant thereto, shall be punishable upon conviction thereof, to pay a fine of not less than One Hundred ($100.00) Dollars or more, as provided in Section 1-5 of Chapter 1 of this Code.

Each day such violation or neglect is committed or permitted to continue, shall constitute a separate offense and be punishable as such.

A complaint alleging a violation of any provision or requirement of this Section 16-6 and seeking such fines may be filed in the Municipal Court.

SECTION II. Inconsistent Ordinances.

All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION III. Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void,

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or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION IV. 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. Upon adoption, the Borough Clerk shall forward a copy of this Ordinance to the Monmouth County Recycling Coordinator.

Introduced: March 6, 2012
Public Hearing: March 20, 2012
Adopted: March 20, 2012

_____
Valerie T. Heilweil, RMC
Borough Clerk
Borough of Keyport

_____
Robert E. McLeod, Mayor
Borough of Keyport