

Chapter 143

Recycling

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[HISTORY: Adopted by the BOROUGH COUNCIL 8-15-90 as Ord. No. 760. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds - See Ch. 75.
Garbage, rubbish and refuse - See Ch. 104.

§ 143.1. Title.

The short title of this chapter shall be the "BOROUGH Recycling Ordinance," and the same may be cited in that manner.

§ 143.2. Definitions.

The following words and phrases used throughout this chapter shall have the following meanings:

ACT 101 - The Municipal Waste Planning, Recycling and Waste Reduction Act of 1988.¹

¹ Editor's Note: See 53 P.S. § 4000.101 et seq.

ALUMINUM - All empty aluminum beverage or food cans.

BIMETAL CONTAINERS - Empty food or beverage containers consisting of steel and ALUMINUM, and cans commonly referred to as "tin cans."

BOROUGH - The Borough of Whitehall.

COLLECTOR - The entity or entities authorized by the BOROUGH to collect recyclable materials from residences or authorized by commercial, municipal and institutional establishments that do not receive collection services from the BOROUGH to collect recyclable materials from those properties.

COMMERCIAL ESTABLISHMENTS - Those properties used primarily for commercial or industrial purposes.

COMMUNITY ACTIVITIES - Events that are sponsored by public or private agencies or individuals that include but are not limited to fairs, bazaars, socials, picnics and organized sporting events attended by two hundred (200) or more individuals per day.

CORRUGATED PAPER - Structural paper materials with an inner core shaped in rigid parallel furrows and ridges.

COUNCIL - The BOROUGH Council of the BOROUGH.

FERROUS CONTAINERS - Empty steel, or tin-coated food or beverage containers.

GLASS CONTAINERS - Bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass, plate glass, automotive glass, light bulbs, blue glass and porcelain and ceramic products.

HIGH-GRADE OFFICE PAPER - All white paper, bond paper and computer paper used in COMMERCIAL, institutional and municipal ESTABLISHMENTS and in residences.

INSTITUTIONAL ESTABLISHMENTS - Those facilities that house or serve groups of people, including but not limited to hospitals, nursing homes, orphanages, day-care centers, schools and universities.

LEAD ACID BATTERIES - Includes but shall not be limited to automotive, truck and industrial batteries that contain lead.

LEAF WASTE - Leaves from trees, bushes and other plants, garden residues, chipped shrubbery and tree trimmings, but not including grass clippings.

MAGAZINES and PERIODICALS - Printed matter containing miscellaneous written pieces, published at fixed or varying intervals. Expressly excluded are all other paper products of any nature whatsoever.

MULTIFAMILY HOUSING PROPERTIES - Any properties having four (4) or more dwelling units per structure.

MUNICIPAL ESTABLISHMENT - Public facilities operated by the MUNICIPALITY and other governmental and quasi-governmental authorities.

MUNICIPAL WASTE - Any garbage, refuse, industrial lunchroom or other material, including solid, liquid, semisolid or contained gaseous material, resulting from the operation of residential, MUNICIPAL, COMMERCIAL or INSTITUTIONAL ESTABLISHMENTS and from COMMUNITY ACTIVITIES and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act² from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

NEWSPAPERS - Paper of the type commonly referred to as "newsprint" and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded are newspapers which have been soiled, colored comics, glossy advertising inserts and advertising inserts printed in colors other than black and white often included with newspapers.

PERSON(S) - Owners, lessees and occupants of residences and COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS.

PLASTIC BAGS - Any container used for the carrying, storing or disposing of groceries, wearing apparel, other retail/wholesale purchased items and yard waste.

PLASTIC CONTAINERS (HDPE) - Containers used for milk, clothes and dish-washing soaps and other cleaning products.

PLASTIC CONTAINERS (PET) - Containers used for soft drinks.

RECYCLABLE MATERIALS - Materials generated by residences and COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS which are specified by the BOROUGH and can be separated from MUNICIPAL WASTE and returned to commerce to be reused as a resource in the development of useful products. "Recyclable materials" may include, but are not necessarily limited to, clear glass, colored glass, ALUMINUM, steel and bimetallic cans, high-grade office paper, newsprint, CORRUGATED PAPER, LEAF WASTE, plastics and any other items selected by the BOROUGH or specified in future revisions to ACT 101. The "recyclable materials" selected by the BOROUGH may be revised from time to time as deemed necessary by the BOROUGH.

RECYCLING - The collection, separation, recovery and sale or use of metals, glass, paper, LEAF WASTE, plastics and other materials which would otherwise be disposed or processed as MUNICIPAL WASTE or the mechanized separation and treatment of MUNICIPAL WASTE (other than through combustion) and creation and recovery of reusable materials.

RESIDENCES- Any occupied single- or multifamily dwellings for which the BOROUGH

² Editor's Note: See 35 P.S. § 6018.101 et seq.

provides MUNICIPAL WASTE collection service.

SECRETARY/MANAGER - The Secretary/Manager or Assistant Secretary/Manager of the BOROUGH.

SOURCE-SEPARATED RECYCLABLE MATERIALS - Those materials separated at the point of origin for the purpose of being recycled.

SUPER-MIX PAPER - An unseparated mix of all recyclable grades and types of paper items used in offices, for which one (1) unit price is offered by a RECYCLING broker or market.

WASTE - A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include SOURCE-SEPARATED RECYCLABLE MATERIALS or material approved by the Pennsylvania Department of Environmental Resources for beneficial use.

§ 143.3. Establishment of program; authority.

143.3.1. The BOROUGH hereby establishes a RECYCLING program for the mandatory separation and collection of RECYCLABLE MATERIALS and the separation, collection and composting of LEAF WASTE from all RESIDENCES and all COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS located in the BOROUGH for which WASTE collection is provided by the BOROUGH or any other COLLECTOR. Collection of the RECYCLABLE MATERIALS shall be made at least once per month by the BOROUGH, its designated agent or any other solid WASTE COLLECTORS operating in the BOROUGH and authorized to collect RECYCLABLE MATERIALS from RESIDENCES or from COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS.

The RECYCLING program shall also contain a sustained public information and education program.

143.3.2. Specific program regulations are provided as an attachment to this chapter.³ The BOROUGH COUNCIL is empowered to make changes to program regulations as necessary, as described in § 143.10. Subsequent changes in the program regulations may be made through approval of BOROUGH COUNCIL and public notice and notification of all affected parties.

143.3.3. This chapter is ordained pursuant to the CHARTER of the BOROUGH.

§ 143.4. LEAD ACID BATTERIES.

Disposal by PERSONS of LEAD ACID BATTERIES with other MUNICIPAL WASTES is

³ Editor's Note: Said specific regulations are on file in the office of the SECRETARY/MANAGER.

prohibited and shall be a violation of this chapter.

§ 143.5. Separation and collection.

143.5.1. All PERSONS who are residents of the BOROUGH shall separate all of those RECYCLABLE MATERIALS designated by the BOROUGH from all other MUNICIPAL WASTE produced at their homes, apartments and other residential establishments, store such materials for collection and shall place the same for collection in accordance with the guidelines established hereunder.

143.5.1.1. PERSONS in RESIDENCES must separate RECYCLABLE MATERIALS from other refuse. RECYCLABLE MATERIALS shall be placed at the curbside in containers provided by the BOROUGH for collection. Any containers provided to RESIDENCES for collection of RECYCLABLE MATERIALS shall be the property of the BOROUGH and shall be used only for the collection of RECYCLABLE MATERIALS. Any resident who moves within or from the BOROUGH shall be responsible for returning the allocated container(s) to the BOROUGH or shall pay the replacement cost of ten dollars (\$10.) per container. The use of RECYCLING containers for any purpose other than the designated RECYCLING program or the use of the RECYCLING containers by any PERSON other than the PERSON allocated such container(s) shall be a violation of this chapter. Residents may, if necessary, purchase additional containers of their choosing for RECYCLABLE MATERIALS. However any such container must bear the self-adhesive RECYCLING logo label. The labels are available at the BOROUGH office free of charge.

143.5.1.2. An owner, landlord, manager or agent of an owner, landlord or manager of a multifamily housing property with more than four (4) units not serviced by the BOROUGH program may comply with its RECYCLING responsibilities by establishing a collection system at each property. The collection system must include suitable containers for collecting and sorting the RECYCLABLE MATERIALS, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords, managers and agents of owners, landlords or managers who comply with this chapter shall not be liable for noncompliance of occupants of their buildings. If RECYCLABLE MATERIALS are collected by a COLLECTOR other than the BOROUGH or its authorized agent, owners, landlords and agents of owners or landlords shall submit an annual report to the BOROUGH reporting the tonnage of materials recycled during the previous year. This requirement may be fulfilled by the submission of a letter or form from the COLLECTOR which certifies that RECYCLABLE MATERIALS are being collected from the multifamily housing property.

143.5.2. All PERSONS must separate LEAF WASTE from other MUNICIPAL WASTE generated at their houses, apartments and other residential establishments for collection unless those PERSONS have otherwise provided for the composting of LEAF WASTE.

143.5.3. PERSONS must separate high-grade office paper, ALUMINUM, CORRUGATED PAPER, LEAF WASTE, clear, green and brown glass and such other materials as may be designated by the BOROUGH generated at COMMERCIAL,

MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS and from COMMUNITY ACTIVITIES and store the RECYCLABLE MATERIALS until collection. A PERSON may be exempted from this subsection by:

143.5.3.1. Providing for the RECYCLING of high-grade office paper, ALUMINUM, CORRUGATED PAPER, LEAF WASTE, clear, green and brown glass and other materials deemed appropriate by the BOROUGH.

143.5.3.2. Submitting, at a minimum, an annual RECYCLING report to the SECRETARY/MANAGER of the BOROUGH. The report shall document the amount of MUNICIPAL WASTE generated per year, as well as the type and weight of materials that were recycled in the previous calendar year. Valid documentation shall include information from an end-use recycler or WASTE hauler which describes the type and weight of each RECYCLABLE MATERIAL that was collected and marketed. Documentation may be in the form of one (1) of the following:

143.5.3.2.1. Copies of weight receipts or statements which consolidate such information.

143.5.3.2.2. A report from the provider of RECYCLING collection services which identifies the amount of each material collected and marketed. The type and weight of recyclables generated by an individual establishment may be approximated based on a representative sample of its source-separated materials.

143.5.3.2.3. A report from the provider of WASTE collection services that identifies the type and weight of each RECYCLABLE MATERIAL collected and marketed in cases where recyclables are commingled with the establishment's WASTE. The type and weight of recyclables generated by an individual establishment may be approximated based on a representative sample of its WASTE. For **Subsections 143.5.3.2.2 and 143.5.3.2.3** where recyclables from several establishments are collected in the same vehicle, an individual establishment's contribution to the load may be apportioned. Only the weight of materials marketed for RECYCLING purposes can be credited to an establishment.

143.5.4. If RECYCLABLE MATERIALS are collected by a COLLECTOR other than the BOROUGH or its authorized agent, occupants of said establishments shall submit an annual report to the BOROUGH reporting the type and weight of materials recycled during the previous calendar year. This requirement may be fulfilled by the submission of a letter or form from the COLLECTOR which certifies that RECYCLABLE MATERIALS are being collected from the establishment.

143.5.5 All employees, users (patrons) and residents of COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS must be informed of the RECYCLING program. The education program should describe the program's features and requirements and should include, at a minimum, an annual program meeting and an orientation to the program upon the arrival of a new employee or resident. Receptacles

should be clearly marked with the RECYCLING symbol and the type of RECYCLABLE MATERIAL that is to be placed in the receptacle, and signs should be prominently displayed stating the requirements of the program.

143.5.6. WASTE minimization.

143.5.6.1. COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS which generate more than two thousand two hundred (2,200) pounds of MUNICIPAL WASTE per month should also implement a WASTE minimization opportunity assessment which includes:

143.5.6.1.1. WASTE characterization, including source, generation rate, management techniques and management costs. The assessment should expressly consider high-grade office paper, ALUMINUM CORRUGATED PAPER, LEAF WASTE, clear, green and brown glass and any other materials generated in significant quantities.

143.5.6.1.2. A description of all possible WASTE minimization options, including use and WASTE reclamation.

143.5.6.1.3. An evaluation of the economic and technical feasibility of each option and a ranking of each option.

143.5.6.1.4. An estimate of the pay-back period for each feasible option.

143.5.6.1.5. A statement of which options will be implemented, including an explanation and a timetable.

143.5.6.1.6. Identification of the individual(s) who will be responsible for implementing the plan.

143.5.6.2. The WASTE minimization plan should be periodically updated. Implementation of the plan should include:

143.5.6.2.1. RECYCLING or composting of materials to the greatest extent feasible, either privately or through a municipal RECYCLING program.

143.5.6.2.2. Use, to the greatest extent feasible, of products and materials which are recyclable or made of postconsumer materials.

143.5.6.2.3. Substitution, to the greatest extent feasible, of durable and reusable products and materials for products that are not durable or reusable.

143.5.6.2.4. Appropriate education materials and signs made available to employees or the public to encourage participation in RECYCLING and WASTE reduction.

143.5.7. All RECYCLING collection activity shall be conducted from

Monday through Friday between the hours of 6:00 a.m. and 5:00 p.m. or on Saturdays between the hours of 6:00 a.m. and 5:00 p.m., unless prior approval or any exception has been granted by the BOROUGH. No collection, hauling or transporting of recyclables shall be permitted on Sunday.

§ 143.6. Ownership of RECYCLABLE MATERIALS.

All RECYCLABLE MATERIALS placed by PERSONS for collection by the BOROUGH or authorized COLLECTOR pursuant to this chapter shall, from time of placement at the curb, become the property of the BOROUGH or the authorized COLLECTOR, except as otherwise provided by § 143.8 of this chapter. Nothing in this chapter shall be deemed to impair the ownership of separated RECYCLABLE MATERIALS by the generator unless and until such materials are placed at the curbside for collection.

§ 143.7. Collection by unauthorized PERSONS.

143.7.1. It shall be a violation of this chapter for any PERSON, firm or corporation other than the BOROUGH, or one authorized by the BOROUGH or other entity responsible for providing for collection of RECYCLABLE MATERIALS, to collect RECYCLABLE MATERIALS placed by RESIDENCES or COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS for collection by the BOROUGH or an authorized COLLECTOR, unless such PERSON, firm or corporation has prior written permission from the generator to make such collection. In violation hereof, unauthorized collection from one (1) or more RESIDENCES or COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS on one (1) calendar day shall constitute a separate and distinct offense punishable as hereinafter provided.

143.7.2. As provided in the CODE of the BOROUGH, Chapter 104, Article III, §§ 104.6 through 104.8, the unauthorized sorting and removal, commonly referred to as "scavenging," of refuse material is prohibited.

§ 143.8. Donation or sale of recyclables.

Any RESIDENCE or COMMERCIAL, MUNICIPAL or INSTITUTIONAL ESTABLISHMENT may donate or sell RECYCLABLE MATERIALS to any PERSON, firm or corporation, whether operating for profit or not, provided that the receiving PERSON, firm or corporation shall not collect such donated RECYCLABLE MATERIALS from the collection point of a RESIDENCE or COMMERCIAL, MUNICIPAL or INSTITUTIONAL ESTABLISHMENT without prior written permission from the BOROUGH or other entity responsible for authorizing the collection of RECYCLABLE MATERIALS to make such a collection.

§ 143.9. Disposal of recyclables prohibited.

Disposal by PERSONS of RECYCLABLE MATERIALS with WASTES is prohibited and shall be a violation of this chapter. The collected RECYCLABLE MATERIALS shall be taken to a RECYCLING facility. Disposal by COLLECTORS or operators of RECYCLING facilities of SOURCE-SEPARATED RECYCLABLE MATERIALS in landfills or to be burned in incinerators is prohibited unless markets do not exist and the COLLECTORS or operators have notified the SECRETARY/MANAGER in writing.

§ 143.10. Enforcement; violations and penalties; noncollection.

143.10.1. The SECRETARY/MANAGER is hereby authorized and directed to make reasonable rules and regulations for the operation and enforcement of this chapter as deemed necessary, including but not limited to:

140.10.1.1. Establishing RECYCLABLE MATERIALS to be separated for collection and RECYCLING by RESIDENCES and additional RECYCLABLE MATERIALS to be separated by COMMERCIAL, MUNICIPAL and INSTITUTIONAL ESTABLISHMENTS.

140.10.1.2. Establishing collection procedures for RECYCLABLE MATERIALS.

140.10.1.3. Establishing reporting procedures for amounts of materials recycled.

140.10.1.4. Establishing procedures for the distribution, monitoring and collection of recyclable containers.

140.10.1.5. Establishing procedures and rules for the collection of LEAF WASTE.

140.10.2. Any PERSON, firm or corporation that shall violate the provisions of this chapter shall receive an official written warning of noncompliance for the first and second offense. Thereafter all such violations shall be subject to the penalties hereinafter provided.

140.10.3. Except as hereinafter provided, any PERSON, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be sentenced to pay a fine of not less than as specified in **Subsections 143.10.3.1, 143.10.3.2 and 143.10.3.3** and costs of prosecution for each and every offense.

143.10.3.1. Summary offense. Any PERSON, other than a municipal official exercising his official duties, who violates any provision of this chapter, any regulation promulgated hereunder, any order issued hereunder or the terms or conditions of any approved MUNICIPAL WASTE management plan shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than one hundred dollars (\$100.) and not more than one thousand dollars (\$1,000.).

143.10.3.2. Misdemeanor offense. Any PERSON, other than a municipal official exercising his official duties, who violates any provision of this chapter, any regulation promulgated hereunder, any order issued hereunder or the terms or conditions of any approved MUNICIPAL WASTE management plan commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than one thousand dollars (\$1,000.) but not more than ten thousand dollars (\$10,000.) per day for each violation.

143.10.3.3. Second or subsequent offense. Any PERSON, other than a municipal official exercising his official duties, who, within two (2) years after a

conviction of a misdemeanor for any violation of this chapter, violates any provision of this chapter, any regulation promulgated hereunder, any order issued hereunder or the terms or conditions of any approved MUNICIPAL WASTE management plan commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than two thousand five hundred dollars (\$2,500.) nor more than twenty-five thousand dollars (\$25,000.) for each violation.

143.10.3.4. Violations to be separate offense. Each violation for each separate day and each violation of any provision of this chapter, any regulation promulgated hereunder, any order issued hereunder or the terms or conditions of any approved MUNICIPAL WASTE management plan shall constitute a separate offense under **Subsections 143.10.3.1, 143.10.3.2 and 143.10.3.3.**

143.10.4. The BOROUGH reserves the right not to collect MUNICIPAL WASTE containing RECYCLABLE MATERIALS in combination with nonrecyclable materials or not to collect MUNICIPAL WASTE from any RESIDENCE not being registered as having obtained a BOROUGH RECYCLING container.

§ 143.11. Agreements with public or private agencies or firms.

The BOROUGH may enter into an agreement(s) with public or private agencies or firms to authorize them to collect all or part of the RECYCLABLE MATERIALS from curbside.

§ 143.12. Modifications.

The BOROUGH may from time to time modify, add to or delete from the standards and regulations herein and as authorized in **§ 143.10.**