

CHAPTER 20

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Part 1
Collection

§101. General.

This ordinance is adopted to regulate the care and removal of garbage, refuse and ash, govern the assessment and collection of fees therefor, and prescribe fines and penalties for violations of the ordinance. (Ordinance 344, April 6, 1981, §1)

§102. Definitions.

As used in this Chapter, the words garbage, refuse, ashes, riffraff and refuse shall have the following meanings:

1. Garbage — animal and vegetable matter after it has been used or prepared as food for man, including kitchen and table wastes of animal or vegetable matter such as vegetables, fish, bones, fat and other ordinary kitchen wastes resulting from the preparation of food.
2. Rubbish — paper, rags, street sweepings, dead animals, excelsior, straw, boxes, old clothes, mattresses, old shoes, leather scrap, oil-cloth, carpet, Christmas Trees, prunnings from vines, lawn trimmings, grass, trash and any and all other flammable waste materials which result from the ordinary conduct of housekeeping.
3. Ashes — the residue from the burning of wood, coal, coke or other combustible materials.
4. Riffraff — all material not included in the definitions of “garbage”, “refuse”, “rubbish”, and “ashes”, but shall include new or used furniture, tires, other machinery such as washing machines, bicycles and any large waste materials not commonly produced from the ordinary conduct of housekeeping.
5. Refuse — garbage, rubbish, ashes and riffraff as herein defined.
6. Apartment(s) — a building arranged, designed and intended for occupancy by four or more families living independent of each other in separate residential dwellings, doing their own cooking therein. Also known as “multifamily rental housing property.” A building of three or less families (units) shall be deemed to be a residential establishment. [Ord. 592]
7. Commercial Establishment — any establishment engaged in a nonmanufacturing or nonprocessing business including, but not limited to, stores, markets, office buildings, restaurants, shopping centers, theaters, churches and mobile home parks. [Ord. 592]

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8. Industrial Establishment — any establishment engaged in manufacturing or processing including, but not limited to, factories, foundries, mills, processing plants, refineries and the like. [Ord. 592]
9. Municipal Solid Waste or Solid Waste — any garbage, refuse, industrial lunch-room or office waste and other material including solid, liquid, semisolid or contained gaseous material resulting from the operation of residential, municipal, commercial, industrial or institutional establishments and from community activities, including any trace amounts of hazardous waste normally found in household trash, garbage, or refuse, and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial, industrial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials or “leaf waste” as defined by Act 101. [Ord. 592]
10. Residential Establishment(s) — any premises utilized primarily as a residential dwelling unit including, but not limited to, homes and mobile homes, containing three or less residential dwellings. Premises containing four or more rental residential dwellings are “apartments.” Premises with over 30% of the floor area used by a nonresidential establishment shall be deemed to be a “commercial establishment.” [Ord. 592]
11. Institutional Establishment — any establishment engaged in service to persons including, but not limited to, hospitals, nursing homes, orphanages, schools and universities. [Ord. 592]

(Ordinance 344, April 6, 1981; as amended by Ordinance 385, October 7, 1985; and by Ordinance 592, November 4, 1996, §102)

§103. Containers and Packaging.

All householders shall provide individual containers of not less than 10 gallons, and not more than 32 gallons capacity, which containers shall be of plastic or metal with tightly fitting covers, shall be windproof, shall be equipped with handles and shall be designed to be carried by one man, and the occupants and proprietors of the places where ashes, refuse and rubbish are accumulated shall provide sufficient number of containers so that the aggregate capacity shall be sufficient for normal needs between intervals of collection; provided, however, that the total loaded weight of any such container shall not be more than 35 pounds, and provided further that it shall be the responsibility of each and every householder to maintain said containers in proper condition for the storage of said materials therein and the handling thereof by the collection service.

Plastic bags or waste containers may be used for materials appropriate to such usage; provided, however, that the total loaded weight of the plastic containers shall not exceed 35 pounds or the wet breaking strength of the plastic containers, whichever is less.

No garbage, rubbish, ashes or ruffraff shall be deposited, thrown out or littered onto any street, public way or private property in the Borough, except in approved containers, at the time so designated that it is to be collected.

Only residents of the Borough may deposit garbage that is to be collected. It shall be unlawful for any nonresident to bring any material into the Borough and leave it.

No earth or other material used for construction or remodeling shall be collected. This material is to be disposed of by the contractor or citizen.

(Ordinance 344, April 6, 1981, §3 & 4; as amended by Ordinance 385, October 7, 1985)

§104. Residential Collection.

All municipal solid waste accumulated in the Borough of Fountain Hill from residential establishments shall be collected, conveyed and disposed of by the Borough of Fountain Hill, or by a business entity under contract to the Borough to provide this service, in accordance with the regulations of this chapter and any other applicable regulations of the Borough. [Ord. 592]

The collection and disposal of residential refuse in the Borough of Fountain Hill shall be under the supervision of the Borough Executive Secretary. He shall have the authority to make authorized regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection and disposal as he may deem advisable or necessary and to change and modify the same after notice as required by law, provided that such regulations are not contrary to the provisions hereof. An aggrieved person shall have the right to appeal against any regulation or order made by the Borough Executive Secretary to the Borough Council, which may confirm, modify or revoke any such regulation or order; provided, however, that no such appeal to Borough Council shall be permitted as to any regulation covered by this Chapter or any regulation or order of the Borough Executive Secretary which shall have been approved by Borough Council.

All persons owning and/or occupying residential establishments, except apartments, within the Borough of Fountain Hill shall dispose of all garbage, rubbish, ashes or ruffraff, by means of the Borough collection service, and no such person or persons shall transport or dispose of any refuse by any means not approved by this Chapter or other regulations adopted from time to time by Borough Council. [Ord. 592]

All containers and receptacles shall be placed at the edge of each property that borders on a street or public way not more than 12 hours prior to collection and removed from the same place within 12 hours after the material has been collected.

(Ordinance 344, April 6, 1981, §5; as amended by Ordinance 385, October 7, 1985; and by Ordinance 592, November 4, 1996, §104)

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§105. Fees for Residential Collection; Payment.

The fees for the residential collection and disposal service shall be determined by resolution of the Borough Council. Public notice of the fee schedule shall be made by the Borough Council Secretary.

All bills for the residential collection and disposal service shall be rendered to the owner of each property based on the number of residential units in or on the said property, and the bill shall thereupon be immediately due and payable to the place designated on the bills rendered for same.

The property owner shall be solely responsible for notifying the Borough, in writing, at the time of billing, if there are more or less residential units on his property than what he has been billed for, and, upon failure of a property owner to so notify, he shall be liable for payment of all fees based on the number of residential units the Borough shall determine, along with penalties applicable from the date on which any additional unit or units should have been first billed.

The fee for residential units as set by Council shall be subject to a 5% discount if paid within 30 days of receipt of the bill. The gross amount is to be paid if payment is made in the following 30 days. After 60 days, if the bill remains unpaid, a 10% penalty shall be added to all charges. Additional measures may at that time be taken by the Borough Executive Secretary and/or the Borough Solicitor to collect such charges plus interest, under the laws relating to collection of municipal claims, or in any manner authorized by law.

(Ordinance 344, April 6, 1981, §6; as amended by Ordinance 385, October 7, 1985)

§106. Commercial Establishments, Institutional Establishments, Industrial Establishments and Apartments Collection.

All commercial establishments, institutional establishments, industrial establishments and apartments shall employ a refuse contractor to collect their refuse, provided that the Contractor complies with all of the sections of this Part and other applicable regulations of the Commonwealth and/or Lehigh County.

- A. All apartments, commercial industrial and institutional establishments shall provide for the collection and disposal of all municipal waste generated by such establishment from that establishment at least once each week by contract with a collector. The Borough shall not provide nor contract nor otherwise be responsible for or obligated to provide any such collection, removal, transportation or disposal service to or from any such establishment.
- B. Storage of municipal waste on the property of apartments, industrial and institutional establishments shall be provided in the same type of containers as are required for residential dwellings, except that containers larger

than 30 gallons or dumpsters may be used where needed to accommodate larger volumes of municipal waste. Such containers and dumpsters shall be kept in clean, safe and sanitary condition.

- C. Containers for collection of municipal waste at apartments, industrial and institutional establishments shall be located on such premises, and shall be appropriately screened at a place which shall not interfere with public or private sidewalks, driveways, roads, streets, highways or entrances and exits to public or private buildings.
- D. The collection and disposal of municipal waste at apartments, industrial and institutional establishments shall be subject to such rules and regulations as shall from time to time be promulgated by the Executive Secretary and approved by Borough Council.

(Ordinance 344, April 6, 1981, §7; as amended by Ordinance 385, October 7, 1985; and by Ordinance 592, November 4, 1996, §106)

§107. Lehigh County Act 101 Municipal Solid Waste Plan.

All contractors shall comply with the implementation of the Lehigh County Act 101 Municipal Solid Waste Disposal Plan, particularly to licensing provisions, as well as the governing County ordinances, as amended from time to time.

(Added by Ordinance 385, October 7, 1985; and amended by Ordinance 592, November 4, 1996, §107)

§108. Fines and Penalties.

Any person, firm or corporation violating any provisions of this ordinance, including failure to pay fees under §105 of this Part, shall be fined not more than \$600 and costs for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues. [Ord. 684]

The fact that garbage, refuse or ashes remain on any occupant's premises in the Borough in violation of this ordinance shall be prima facie evidence that the occupant of such premises is responsible for the violation of the ordinance occurring.

(Ordinance 344, April 6, 1981, §7; as amended by Ordinance 684, October 6, 2003)

§109. Severability.

If any section, paragraph, subsection, clause or provisions of this ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect

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the validity of this ordinance as a whole or any other part thereof. (Ordinance 344, April 6, 1981, §8)

§110. Effective Date.

This ordinance shall take effect immediately upon approval of Borough Council. (Ordinance 344, April 6, 1981, §10)

Part 2

Recycling

§201. Title, Construction, Repealer, Continuation, Saving Clause, and Severability.

1. Title. This Part shall be known as the “Borough of Fountain Hill Mandatory Recycling Ordinance.”
2. Construction.
 - A. The various headings used throughout this Part are intended only as an aid to its organization, in order to facilitate ease of reading and are not to be considered a substantive part of this Part.
 - B. In this Part, unless the context clearly indicates otherwise:
 - (1) The singular shall include the plural;
 - (2) The plural shall include the singular; and
 - (3) The masculine shall include the feminine and neuter.
3. Repealer. All other Ordinances, Chapters or Codes or parts of Ordinances, Chapters or Codes in conflict herewith, in whole or in a part, are hereby repealed, but only to the extent of such conflict.
4. Continuation. The provisions of this Part hereby adopted, insofar as they are the same as any Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances, and not as new enactments.
5. Saving Clause. The provisions of this Part hereby adopted shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, accrued or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Part; nor shall any just or legal right or remedy of any individual or entity of any character be lost, impaired or affected by this Part.
6. Severability. In the event any of the provisions of this Part or the application thereof is declared unconstitutional, unlawful, invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect any other provisions or applications of the remainder of this Part or of this Part as a whole, and the remaining provisions and applications shall continue in full force and effect as though the unconstitutional, unlawful, invalid or unenforceable provision or application thereof had never been a part hereof.

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(Ordinance 495, March 2, 1992, §1)

§202. Definitions.

The following words and phrases, when appearing in the text of this Part, shall have the meaning given to them in this Section, unless the context clearly indicates otherwise.

ALUMINUM CANS — empty containers used for food or beverage, consisting entirely of aluminum.

APARTMENTS — a building arranged, designed and intended for occupancy by four or more families living independent of each other in separate residential dwellings, doing their own cooking therein. Also known as “multifamily rental housing property.” A building of three or less families (units) shall be deemed to be a residential establishment. [Ord. 592]

AUTHORIZED COLLECTION — the collection of recyclable materials by a person, company, contractor or service which has a prior agreement, contract, permit or arrangement authorizing pickup and transportation of recyclable materials, as a part of the recycling program of the Borough of Fountain Hill.

BI-METALLIC CONTAINERS — empty containers consisting of either steel only, or steel and aluminum, which were used to contain either food or beverage or both.

BOROUGH — the Borough of Fountain Hill, a Borough duly organized and existing as a municipal corporation and political subdivision of the Commonwealth of Pennsylvania, located in Lehigh County, Pennsylvania, including Borough Council, the Executive Secretary, the Borough staff and other officers, officials, and employees, when duly authorized.

COATED PAPER — includes any paper which has a shiny or glossy finish or appearance, resulting from treatment of the surface or application of a coating of kaolin, clay or other chemicals. “Coated paper” does not include the advertising inserts which are often or normally intermingled or distributed with newspapers.

COMMERCIAL ACTIVITY — includes all business, commercial, educational, industrial, institutional or municipal establishments, and community activities. Specifically included are the “Cedarbrook Annex” of Lehigh County at Delaware and Mohican Streets, the “Fountain Hill Towers” at Seneca and Hoffert Streets, and the “Mill 1” and “Mill 2” Housing Development at 901 Cherokee Street, because of their distinguishing characteristics of concentrated population density, size, and integrated management and support systems. If a commercial activity occurs in a residential establishment, only the recyclable materials from the commercial portion of the establishment shall be deemed to be from a commercial activity.

COMMERCIAL SOLID WASTE HAULER — any person who hauls or transports, by any mode of transportation, for any consideration or as a business in trade or commerce, any waste material which that same person collects, picks up or receives from any location within the Borough of Fountain Hill.

CONTAINER — the container and lid, if any, that is issued, sold or approved by the Borough for the purposes of collecting, storing and placing recyclables at the curbside for authorized collection.

CORRUGATED PAPER — the fabricated or manufactured structural paper material with an inner core shaped in rigid parallel furrows and ridges, with one or more outer liners, often consisting of a material known as kraft paper.

CURBSIDE — the following location on the adjoining public street or road, but not alleys, on which the establishment or structure has its address, front door or frontage.

- (1) On or just in back of the curb or curblines at the edge of the cartway, for streets or roads which have curbs.
- (2) For streets or roads which do not have curbs, within reasonable safe proximity of the paved cartway.
- (3) As otherwise established by regulation of the Executive Secretary, where the above locations are not clear or satisfactory.

CURBSIDE RECYCLING PROGRAM — the regularly scheduled operation which provides labor, equipment and services to collect recyclable materials from the curbside of designated residential establishments within the Borough.

GLASS CONTAINERS — bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products.

HIGH GRADE OFFICE PAPER — any white paper of the type commonly used for letter writing, stationery, note paper, plain paper for photocopying machines, computer printers and other general-purpose paper, whether or not any printed or written matter is contained thereon. Other similar paper, such as colored papers, carbonless paper, "FAX" or thermal paper, etc., may but need not be included in this meaning. It does not include newspaper, magazines, corrugated paper or any coated paper.

LAW ENFORCEMENT OFFICER — any police officer or auxiliary police officer, whether employed by the Borough of Fountain Hill or the Commonwealth of Pennsylvania, or a Code Enforcement Officer of the Borough of Fountain Hill, or any person duly authorized and appointed by Borough Council and/or the Executive Secretary to enforce this Part.

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

LEAF WASTE — leaves from trees, bushes and all other plants, garden residues, shrubbery, tree trimmings and similar materials sometimes known as or referred to as “yard waste,” but may not include grass clippings.

MAGAZINES — printed matter on coated paper containing miscellaneous written pieces published at fixed or varying intervals, also known as periodicals, and includes telephone directories. Expressly excluded are newspapers and all other paper products of any nature whatsoever.

MULTIFAMILY HOUSING — any four or more condominiums, apartments or other residential dwellings, regardless of the form of ownership, tenancy or the physical arrangement of the structure, which are owned under a single deed.

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 included as newspapers are the advertising inserts printed on coated paper which are often or normally distributed or intermingled with newspapers.

PERSON — any individual, association, partnership, proprietorship, company, firm, corporation, trust, estate, institution, cooperative enterprise, municipality or municipal entity, owner, operator, occupant, tenant, agency or other entity, and the officers, directors, agents and employees of any legal entity having officers, directors, agents and employees, as the context may require.

PLASTIC BEVERAGE CARRIER — shall mean the plastic rings or similar plastic connectors used as holding devices in the packaging of beverages, including, but not limited to, all carbonated beverages liquors, wines, fruit juices, mineral waters, soda and beer.

PLASTIC CONTAINERS — plastic containers of all varieties, types and chemicals compositions of plastic.

PUBLIC PROPERTY — property owned or leased by, or dedicated to, the Borough of Fountain Hill, the County of Lehigh, the Commonwealth of Pennsylvania or the U.S. Federal Government.

RECYCLABLE MATERIALS — materials identified by the Borough to be recycled including, but not limited to, the materials listed in §1501 of Act 101.

RECYCLING FACILITY — a facility employing technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term “recycling facility” shall not mean transfer

stations or landfills for solid waste nor composting facilities or resource recovery facilities.

REGULATIONS — the rules, regulations, standards, specifications, orders, licenses, permits, interpretations, schedules, zones, routes and waivers established from time to time by the Borough pursuant to the authority of this Part. Such regulations shall be deemed to be a part of this Part and included by reference as if written herein.

RESIDENTIAL ESTABLISHMENT –

- (1) A single family dwelling.
- (2) Each structure containing residential dwellings, excluding apartments. [Ord. 592]
- (3) Each residential dwelling within any structure containing residential dwellings.

These definitions shall apply regardless of either the form of ownership or tenancy, or the physical arrangement of establishments which are defined as “commercial activities” by this Part. If a commercial activity occurs in a residential establishment, only the recyclable materials from the residential portion of the establishment shall be deemed to be from a residential establishment.

SCAVENGING — the act or practice of removing, taking, scattering or disturbing recyclable materials which have been collected and assembled in containers, whether stored on private or public property or placed by a roadway, street or curb for authorized collection, which act or practice is neither authorized collection nor part of nor authorized by either the Borough of Fountain Hill recycling program or the person who generated those recyclable materials. “Scavaging” shall not include the collection or picking up of scattered solid waste, litter, trash or debris, whether or not recyclable, from roadsides or public property with the intent of lawfully disposing of or recycling said solid waste, litter, trash or debris.

SOURCE SEPARATE — to separate recyclable materials from municipal solid waste for the purpose of recycling.

WASTE — a material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed, whether municipal, residual or hazardous waste, or otherwise. The term does not include source separated recyclable materials or material approved by the Pennsylvania Department of Environmental Resources for beneficial use.

WHITE GOODS — stoves, dishwashers, refrigerators, freezers, hot water heaters, clothes washers, dryers and similar appliances.

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(Ordinance 495, March 2, 1992, §2; as amended by Ordinance 592, November 4, 1996, §202)

§203. Recyclable Materials.

The following materials are hereby designated as “recyclable materials” within the Borough of Fountain Hill:

- A. Residential. For all residential establishments as defined by this Part:
 - (1) Clear glass.
 - (2) Colored glass.
 - (3) Aluminum cans.
 - (4) Steel and bi-metallic cans.
 - (5) Newspaper and newsprint.
 - (6) Plastics of the following compositions:
 - (a) Polyethylene terephthalate (“PET” or “PETE”), often coded with the number “1,” such as plastic soda bottles.
 - (b) High density polyethylene “HDPE”), often coded with the number “2,” such as one gallon plastic milk or water jugs, laundry products, etc.
 - (7) Leaf waste.
 - (8) White goods.
 - (9) Magazines. [Ord. 592]
 - (10) Corrugated paper (cardboard). [Ord. 592]
- B. Commercial. For all other commercial activities as defined in this Part:
 - (1) Clear glass.
 - (2) Colored glass.
 - (3) Aluminum cans.
 - (4) Steel and bi-metallic cans.

- (5) Leaf waste.
- (6) High grade office paper.
- (7) Corrugated paper. and at least one of (1) of the following:
- (8) Newspaper and newsprint.
- (9) Plastics of the following compositions:
 - (a) Polyethylene terephthalate (“PET” or “PETE”), often coded with the number “1,” such as plastic soda bottles.
 - (b) High density polyethylene (“HDPE”), often coded with the number “2,” such as one gallon plastic milk or water jugs, laundry products, etc.
- (10) White goods.

(Ordinance 495, March 2, 1992, §3; as amended by Ordinance 592, November 4, 1996, §203

§204. General Operation of Program and Requirements.

- 1. **Recyclable Materials.** Every person in the Borough of Fountain Hill shall be required to separate each of the recyclable materials listed in §203, “Recyclable Materials,” of this Part, in accordance with the use of the property occupied by such person, for the purpose of recycling, from all of the other municipal solid waste and other waste generated by that person. No person may dispose of such recyclable materials with any other municipal solid waste or other waste.
- 2. **Batteries.** Lead-acid batteries shall not be disposed of or included in with any municipal solid waste or recyclable materials. Lead-acid batteries shall be disposed only in accordance with Section 1510 of Act 101 (53 P.S. §4000.1510), and otherwise prevailing Commonwealth law and regulations.
- 3. **Plastic Beverage Carriers.** Plastic beverage carriers which are not degradable shall not be used, as required by Section 1701(c) of Act 101.
- 4. **Other Waste.** All other municipal solid waste and other waste materials, whether residual, hazardous or otherwise, shall be generated, stored, separated, placed, collected and disposed in accordance with all other applicable Federal, Commonwealth, County and Borough laws, ordinances, rules, regulations, specifications, standards, orders, permits and licenses.

(Ordinance 495, March 2, 1992, §4)

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§205. Residential Establishments.

All persons owning, occupying or operating residential establishments within the Borough of Fountain Hill shall comply with the following requirements:

- A. Separation. Separate the recyclable materials from all other municipal solid waste, and maintain the recyclable materials in the separate condition until collection by the Borough or its contractor. The recyclable materials may be commingled together, in accordance with regulations established by the Borough. The separation shall be performed by the time those materials are placed at curbside for collection.
- B. Preparation. Prepare for recycling all of the recyclable materials generated by that person, in accordance with the regulations for each respective materials as established by the Borough, by the time that those recyclable materials are placed for collection, and maintain those materials in that condition.
- C. Recycling Containers. Place recyclable materials in the separate official Borough of Fountain Hill recycling containers or other containers authorized by the Borough, in accordance with regulations established by the Borough. Each residential establishment shall acquire and use a set of the official Borough of Fountain Hill recycling containers for this purpose.
- D. Placement and Time. Each recyclable material, in their proper recycling containers, shall be placed or set out at curbside, and empty recycling containers shall be removed from curbside, on the scheduled day for collection, in accordance with the times and schedules established by the Borough.

(Ordinance 495, March 2, 1992, §5)

§206. Recycling Containers.

1. Acquisition, Purchase, Identity, Purpose.
 - A. One official Borough recycling container, of either 10 or 20 gallon capacity, shall be provided by the Borough to the owner, occupant or operator of each residential establishment, including each residential dwelling in all multi-family housing, but each recycling container shall remain the property of the Borough.
 - B. If desired, the owners, occupants or operators of each residential establishment may purchase additional recycling containers from the Borough, at the discretion of the Borough. However, the Borough shall not return or refund any fee that may have been paid to purchase any additional recycling containers when those containers are returned to the Borough.

- C. The Borough shall maintain a written record of the distribution and payment, if any, of the official Borough recycling containers to each residential dwelling and establishment.
 - D. The Borough shall have the power to require that each recycling container be marked to identify the address or location of the residential establishment to which it is assigned.
 - E. Recycling containers shall not be used for any purpose other than recycling.
2. Replacement Fee Amount.
- A. A reasonable replacement fee of \$8 per each 10 gallon official Borough recycling container, and \$10 per each 20 gallon official Borough recycling container is hereby established, to provide for the replacement of each of the Borough's official recycling containers, if and when necessary.
 - B. The amount of the replacement fee may be subsequently changed from time to time by a resolution of the Borough Council, and shall be adequate in amount to reimburse the Borough for the cost of purchasing a replacement for any such container.
 - C. Time of Replacement and Payment. If any official Borough recycling container provided to a residential establishment, including Multifamily housing, is replaced after the effective date of this Part, then the established replacement fee for that container shall be paid to the Borough.
 - D. Returns.
 - (1) Since the recycling containers are the property of the Borough, they shall either be left at that residential dwelling for the next owner, occupant or operator of that residential establishment, or else returned in good condition, cleaned and without any residue in them, to the Borough.
 - (2) Recycling containers shall remain with each residential establishment. Returns of the recycling containers to the Borough shall occur only when the owner, occupant or operator moves or otherwise no longer owns, occupies or operates the residential establishment to which the official recycling container was provided. The Borough may require presentation of a Borough of Fountain Hill Moving Permit, or other satisfactory documentation of the ownership of the recycling container or circumstances causing the return, before accepting the return or providing a replacement recycling container. The Borough may, but shall have no obligation to, provide a replacement recycling container without payment of the replacement fee if the Borough has records indicating that a recycling container was previously issued to

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that residential dwelling and not returned. In that event, the new owner/buyer, occupant/tenant or operator of the residential establishment shall look to the former owner/seller, occupant/tenant/landlord or operator to provide an official Borough recycling container.

E. Loss, Theft or Damage.

- (1) The owner, occupant and operator of each residential establishment is responsible for and shall bear the risk of loss, theft or damage to the official recycling container supplied for the use of that establishment.
- (2) If any official recycling container for a residential establishment is either lost, stolen or damaged, the owner, occupant or operator shall pay a replacement fee to the Borough for replacement in kind of the official recycling container, as otherwise specified in this Section.

(Ordinance 495, March 2, 1992, §6)

§207. Collection by Borough.

1. **Curbside Recycling Program.** The Borough of Fountain Hill shall perform or contract for collection of all recyclable materials which are placed at curbside by each residential establishment on at least one occasion per calendar month, in accordance with zones and schedules established by the Borough. Collection days shall be established by the Borough and shall be alternating days of the week as authorized by the Executive Secretary and approved by Borough Council. [Ord. 592]
2. **Duty to Collect.** The Borough or its contractor shall collect and transport any designated recyclable materials which have been properly prepared, separated and placed at curbside in time for collection on the scheduled collection day. The Borough or its contractor shall have no obligation to collect any materials which do not conform to this Part or regulations.
3. **Drop-Off Centers.** The Borough or its contractor may operate “drop-off” centers at various locations within the Borough of Fountain Hill for the collection of recyclable materials, as designated by §203 of this Part. The Borough shall establish by resolution the locations, operating hours, recyclable materials accepted and other details of the operation of the drop-off centers.
4. **Leaf Waste.** The Borough of Fountain Hill shall collect dry leaves only during the months of October, November and December of each calendar year.
5. **Sale and Marketing.**
 - A. Recyclable materials that are collected shall be recycled unless markets for them do not exist.

- B. The Borough or its contractor shall transport, process, sell, market and dispose of all recyclable materials collected by the Borough or its contractor in any manner that the Executive Secretary or the Borough's contractor sees fit, in their respective discretion, except that there shall be no cash transactions involving recyclable materials marketed by the Borough.
 - C. The Executive Secretary or Treasurer shall establish and keep necessary records and report at least quarterly to the Borough Council the quantity and to whom the recyclable materials are sold, processed, marketed or disposed.
 - D. The Borough or its contractor shall accord consideration for the collection, marketing and disposition of recyclable materials to persons engaged in the business of recycling on the effective date of Act 101, whether or not the persons were operating for profit, as required by Section 1501(f) of Act 101.
 - E. Dealers that market the recyclable materials collected within the Borough must provide written documentation that either said materials are recycled, or that markets for those materials do not exist.
6. Borough Organization. The Executive Secretary shall establish an appropriate administrative organization and system for the collection, transportation, separation, processing, sale, marketing and disposition of recyclable materials in accordance with this Part, but only if the Borough has not contracted with a person or agency to collect, separate and market recyclable materials within the Borough.
7. Contracting Out. Nothing in this Part shall prohibit the Borough from entering into agreements or contracts with any person or agency to collect, separate and market recyclable materials within the Borough on behalf of the Borough.
- A. Power. The Borough shall have the power to enter into contracts with other persons for the collection, transportation, separation, processing, sale, marketing or disposition of materials as required by Act 101 and this Part.
 - B. Allocation of Functions. Any such contract shall state in writing which functions, rights and duties of the Borough under this Part shall be performed by the contracting person, and which functions, rights and duties shall remain with the Borough.
 - C. Substitution and Interpretation. To the extent that any contracting person takes the place of the Borough of Fountain Hill in the performance of functions, rights and duties under this Part, the "Borough of Fountain Hill" and the "Borough" shall be deemed to mean that contracting person.
 - D. Responsibility. A person who enters into a contract under this subsection shall be responsible with the Borough of Fountain Hill for implementation of this Part, to the extent of such contract.

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(Ordinance 495, March 2, 1992, §7; as amended by Ordinance 592, November 4, 1996, §207)

§208. Borough Ownership of Recyclables, Scavenging and Misuse of Containers.

1. Ownership. All recyclable materials shall become the property of and shall be owned by the Borough of Fountain Hill or its authorized agents or contractors when such materials are placed at the curbside for pickup by the Borough or delivered to the drop-off center. Nothing in this Part shall be deemed to impair the ownership of recyclable materials by the person who generated them before such placement or delivery.
2. Scavenging. It shall be a violation of this Part and shall be deemed disorderly conduct for any person as defined above to scavenge or participate in scavenging.
3. Misuse of Containers. It shall also be a violation of this Part and shall be deemed disorderly conduct for any person to damage, take, remove, deface or use for collection any crate, container, bucket or other device issued, sold, provided or approved by the Borough of Fountain Hill and/or the County of Lehigh as a part of any recycling program, pilot program or effort.

(Ordinance 495, March 2, 1992, §8)

§209. Multifamily Housing and Apartments.

All multifamily housing and apartments as defined in this Part, shall recycle all recyclable materials as designated in §203(A), generated by either of the two following methods: [Ord. 592]

- A. Contract. Contracting with a commercial solid waste hauler or otherwise providing for the recycling, as defined by Act 101, of all of the recyclable materials generated within that multifamily housing and apartments, in accordance with this Part. Commercial solid waste haulers contracted, engaged or hired for recycling shall comply with the requirements of §211 of this Part. [Ord. 592]
- B. Onsite System. Multifamily rental housing properties and apartments may establish a collection system for recyclable materials at each property, as required by Section 1501(c)(1)(ii) of Act 101, which collection system shall consist of the following components as a minimum: [Ord. 592]
 - (1) Suitable containers for collecting and sorting materials. [Ord. 592]
 - (2) Easily accessible locations for the containers.

- (3) Written instruction to the occupants concerning the use and availability of the collection system.
- (4) The Borough may establish regulations defining compliance with these requirements.
- (5) The Borough may also approve by motion other equipment and methods that comply with the standards of this Part, and that are acceptable to the Borough's recycling contractor, if any (such as large bins for all multifamily housing on a particular property).
- (6) Owners, landlords and agents of owners and landlords who comply with this subsection shall not be liable for the noncompliance of the occupants of their buildings.
- (7) Compliance with Hauler Regulations. If a multifamily housing and apartments contract with a solid waste hauler for the recycling, the multifamily housing and apartments shall comply with all regulations of the hauler or the Borough for recyclable materials with regard to the following:
 - (a) Separation.
 - (b) Preparation.
 - (c) Storage and placement in containers.
 - (d) Placement for pickup.
 - (e) Timing of placement and pickup.

Violations of these regulations shall be reported to the Borough and the person owning, occupying or operating the multifamily housing and/or apartment who commits a violation shall be subject to the penalties provided by this Part under §215.

[Ord. 592]

(Ordinance 495, March 2, 1992, §9; as amended by Ordinance 592, November 4, 1996, §209)

§210. Commercial Activities.

1. Recycling. Every person owning, occupying or operating a commercial activity, as defined by this Part, within the Borough of Fountain Hill shall comply with this Part by separating and storing in an enclosed building or closed container, or as otherwise approved by the Borough, until collection for recycling, by contract with

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a commercial solid waste hauler or otherwise, all of the recyclable materials designated in §203(B) of this Part which are generated by that commercial activity.

2. Exemptions. Commercial activities may be exempted from recycling certain specific materials and/or methods by a motion of Borough Council for good cause shown, which may include, but need not be limited to, preserving the confidentiality of documents, impracticality, equivalent or substitute performance, etc.
3. Exemption; Report.
 - A. Persons occupying business, commercial, educational, industrial, institutional and municipal establishments shall be exempt from this Part if those persons have, by contract with a commercial solid waste hauler or otherwise, provided for the recycling of the designated recyclable materials. Community activities may not be exempted.
 - B. To be eligible for this exemption, a business, commercial, educational, industrial and institutional establishment must annually provide written documentation to the Borough of the total number of tons recycled, and the total amount of solid waste, in tons, to determine the percentage reduction in the municipal solid waste stream.
4. Compliance With Hauler Regulations. If a commercial solid waste hauler is contracted, engaged or hired for recycling, then the commercial activity shall comply with all regulations of the commercial solid waste hauler for recyclable materials with regard to the following:
 - A. Separation.
 - B. Preparation.
 - C. Storage and placement in containers.
 - D. Placement for pickup.
 - E. Timing of placement and pickup.

Violations of these regulations shall be reported to the Borough, and the persons owning, occupying or operating the commercial activity which commits a violation shall be subject to the penalties provided by this Part.

5. Commingling Prohibited. To avoid contamination, in no event shall any solid waste be mixed with any recyclable material, and further provided that all cans and glass containers, paper and cardboard shall be kept separated from each other, unless prior written approval is obtained from the Borough Council by motion.

(Ordinance 495, March 2, 1992, §10)

§211. Commercial Solid Waste Haulers.

Any commercial solid waste hauler contracted, engaged, or hired for recycling in the Borough of Fountain Hill shall comply with the following requirements:

- A. Licensing. Every commercial solid waste hauler shall be licensed by the Borough of Fountain Hill, as required by the Borough's Codified Ordinances [Chapter 20, Part 1]
- B. Comply With Laws. Every commercial solid waste hauler shall comply with this Section, Act 101 and all other applicable laws and regulations.
- C. Separation. To avoid contamination, every commercial solid waste hauler shall keep each of the several types of recyclable materials which are designated for collection and collected separate from each other, unless the hauler can demonstrate in writing that a market exists for the commingled recyclable materials, and prior written approval is obtained from the Borough. In no event shall any solid waste be mixed with any recyclable material.
- D. Recycling. Every commercial solid waste hauler shall either:
 - (1) Process and recycle all of the recyclable materials;
 - (2) Transport, process, market, sell or deliver all of the recyclable materials to dealers in those materials, and document such delivery in writing; or
 - (3) Provide written proof that markets for those materials do not exist.
- E. Quarterly Reports. Every commercial solid waste hauler shall submit quarterly report to the Borough. Reports shall be submitted within two months of the end of each quarter. Each report shall state for that quarter:
 - (1) The quantity in tons of each recyclable material collected by that hauler in the Borough of Fountain Hill;
 - (2) The total quantity in tons of all garbage, trash and refuse collected by that hauler in the Borough of Fountain Hill; and
 - (3) To whom or where and how each recyclable material was sold or delivered for processing or recycling.
- F. Reporting Noncompliance. Every commercial solid waste hauler shall report all instances of apparent noncompliance, with either this Section or its own

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regulations, to the Borough within 72 hours of becoming aware of that non-compliance.

(Ordinance 495, March 2, 1992, §11)

§212. Regulations and Administration By Borough.

1. Regulations. The Executive Secretary shall have the power to establish regulations for the following parts of the Borough's Recycling Program including any subsequent changes and amendments, which shall become effective 30 days after public advertisement; provided, that the Borough Council concurs with the proposed regulations by resolution:
 - A. Plastic containers – varieties, types, and chemical compositions to be collected for recycling, both in the Borough's curbside recycling program and at any drop-off centers, or otherwise disposed in municipal solid waste.
 - B. Preparation of recyclable materials for recycling.
 - C. Separating, placing and combining recyclable materials in the official Borough of Fountain Hill recycling bins.
 - D. Exact locations for curbside pickup, where those locations are not established or are otherwise unsatisfactory.
 - E. Zones, routes and schedules for collection days.
 - F. Times to set out and bring in the official Borough recycling bins.
 - G. Drop-off center locations, operating hours, materials accepted and other details.
2. Suspension.
 - A. Less Than 30 Days. The Executive Secretary shall have the power to alter or suspend any such regulation in the event of good cause shown or emergency including, but not limited to, snow storms and floods, without prior notice, for a period not longer than 30 days.
 - B. Longer Than 30 Days. Any alteration or suspension extending longer than 30 days shall require the express concurrence of the Borough Council by resolution.
 - C. Recycling Regulations. Exhibits "A," "B," "C," and "D," being certain hand-outs or flyers describing the details of recycling in Fountain Hill, are attached hereto and made a part hereof as though fully included within this Part, and are hereby officially established, enacted, approved and adopted.

(Ordinance 495, March 2, 1992, §12)

§213. Public Information and Education Program.

1. Notice. The Borough of Fountain Hill shall notify the owner and/or occupants of residential establishments and commercial, multifamily housing, apartments, institutional and municipal establishments within its boundaries of the requirements of this Part. [Ord. 592]
2. Timing. This notification shall occur at least 30 days prior to the initiation of the recycling program and at least once every six months thereafter.
3. Education Programs. Education programs shall be furnished periodically or upon request through the schools and other organizations.
4. Other Methods. The Executive Secretary shall have the power to use other methods of publication to comply with the public information and education requirements of Act 101, as may be satisfactory and adequate in the circumstances.

(Ordinance 495, March 2, 1992, §13; as amended by Ordinance 592, November 4, 1996, §213)

§214. Recycling Facility Permits.

Any person seeking to establish a recycling facility within the boundaries of the Borough of Fountain Hill must first obtain all necessary approvals in accordance with the terms and conditions of the Borough of Fountain Hill Zoning Ordinance [Chapter 27] and the Borough's Codified Ordinances, as subsequently amended from time to time. (Ordinance 495, March 2, 1992, §14)

§215. Incentives, Violations, Penalties and Enforcement.

The Executive Secretary and any law enforcement officer shall be responsible for monitoring and enforcing compliance with this Part and regulations.

- A. Administrative Action and Enforcement. For violations of this Part by either the owners, occupants, or operators of residential establishments, the Borough shall comply with the following administrative actions and enforcement procedure before commencing any action before the District Justice:
 - (1) Tagging. For the first two violations by the same person within the last year, which violations shall be separate violations on different dates, any municipal solid waste or recyclable material which does not comply with the provisions of this Part shall be left at curbside and

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shall be tagged with instructions on proper recycling. The address of the violation will be recorded by the Borough of Fountain Hill.

- (2) Letter. For the third separate violation on a different date within the last year, the owner, occupant or operator shall be notified by registered letter of the penalties for continued noncompliance with this Section.

B. **Civil Liability Before District Justice.** Any commercial activity, as defined by this Part, or commercial solid waste hauler, or any owner, occupant or operator of a residential establishment, multifamily housing and apartments, who has been previously subjected to all of the administrative action and enforcement procedure of this Section within the last year, which violates any provision of this Part, shall be subject to the following civil penalties, payable to the Borough of Fountain Hill, upon each finding of liability for a violation of this Part by the District Justice: [Ord. 592]

- (1) **First Action.** For the first action before the District Justice within the last year, a civil penalty of not more than \$300 and costs, including reasonable attorney's fees.
- (2) **Subsequent Actions.** For any action before the District Justice within one year subsequent to a previous finding by the District Justice of civil liability by the same person for any violation of this Part, a civil penalty of not more than \$1,000 and costs, including reasonable attorney's fees.

Provided, however, that no owner, occupant, or operator of a residential establishment shall be liable for a civil penalty greater than \$300 and costs, including reasonable attorney's fees, for a violation of solely the administrative regulations established pursuant to the authority of this Part.

- (3) Each day that a violation of this Section continues shall be deemed to be a separate violation. Each violation shall be deemed to be a separate violation.

C. **Incentives.**

- (1) The Executive Secretary shall have the power to establish incentives to promote compliance with this Part, as may be appropriate from time to time. The Executive Secretary shall report at least quarterly to the Borough Council on the incentives which have been established, and when and to whom those incentives have been granted.
- (2) **Procurement Options.** The Borough may utilize the provision of Act 101's Section 1507 – Procurement Procedures for Local Public Agencies, and Section 1508 – Procurement Options for Local Public Agen-

cies and Certain Commonwealth Agencies, if the Borough elects to do so.

(Ordinance 495, March 2, 1992, §15; as amended by Ordinance 592, November 4, 1996, §215)

§216. Certification and Publication, and Effective Date.

1. Certification and Publication. The Secretary of the Borough of Fountain Hill shall certify to the adoption of this Part and cause the same to be published as required by law.
2. Effective Date. This Section shall take full force and effect, and mandatory recycling for the Borough of Fountain Hill shall commence 30 days after the date of final passage, enactment and approval of this Part.

(Ordinance 495, March 2, 1992, §16)

20 Attachment 1

Borough Of Fountain Hill

Lehigh County, Pennsylvania

RECYCLING REGULATIONS
EXHIBIT "A"

Preparation of Recycling Materials. Each recyclable materials shall be prepared for recycling in accordance with the following for each respective material:

- A. Glass. All glass shall have the lids and any metal or plastic rings around the necks of bottles removed and shall be rinsed to remove any remaining food or beverage.
- B. Cans. All cans shall be rinsed to remove any remaining food or beverage.
- C. Newspapers. All newspapers shall be placed in paper bags or tied with string in bundles and stored in a dry location which is not subject to wetting from outdoor weather conditions. Bags and bundles containing newspapers shall not exceed eight inches in thickness nor 50 pounds in weight.
- D. Magazines and Coated Paper. Magazines and coated paper, as defined in this Part, shall not be mixed in with newspapers, but shall be disposed with all other municipal solid waste.
- E. Leaf Waste.
 - (1) Containers. Leaf waste shall be placed in either cans with a lid or in untied bags. Uncovered containers are prohibited.
 - (2) Empty Cans and Bags. The empty cans and bags shall be returned to the establishment after emptying into the collection truck. Every establishment utilizing bags shall provide a container to hold and restrain the empty bags.

20 Attachment 2

Borough Of Fountain Hill
Lehigh County, Pennsylvania

FOUNTAIN HILL RECYCLING

GLASS

(CLEAR, GREEN, BROWN)

Glass food and beverage containers can be easily recycled by removing caps and lids and rinsing out the container. Labels can remain.



Soda Bottles



Beer Bottles



Juice Containers



Ketchup Bottles



Wine and
Liquor Bottles



Food Containers

PLASTICS

Only plastic soda bottles, milk jugs, water jugs, and laundry products are acceptable - no other plastic products unless ♻️ or ♻️ appear on the product.

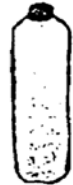
Be sure to remove lids and rinse out container. Labels can remain.



Soda Bottles (PET)



Water Jugs &
Milk Jugs (HDPE)



Shampoo Bottles
(HDPE)



Detergent Bottles
(HDPE)

Other Containers
Labeled:



or



EXHIBIT "B"

20 Attachment 3

Borough Of Fountain Hill
Lehigh County, Pennsylvania

ALUMINUM AND BIMETAL CANS

All food and beverage cans are recyclable. Rinse out cans before placing them in your recycling container. Labels can remain.



Aluminum Cans



Tin Cans



Bimetal Cans
(Aluminum & Tin)

NOT ACCEPTABLE

The following materials are not acceptable and should not be mixed in with your recyclables.



Aluminum Foil/
Pie Plates



Ceramic
Cups/Plates



Mirror and
Window Glass



Light Bulbs



Heat Resistant
Ovenware



Drinking Glasses



Flower Pots



Styrofoam



Aerosol Cans

Plastic Bags
/Wrap

Scrap Metals
(Wire/Pipe/Pots/Etc.)

REMEMBER

NEWSPAPERS

Place along side your recycling container - in tied bundles or placed in paper bags.

ALL JARS AND BOTTLES, METAL CANS, PLASTIC BOTTLES AND JUGS SHOULD BE RINSED CLEAN AND PLACED COMMINGLED IN YOUR RECYCLING CONTAINER.

GLASS BOTTLES AND JARS SHOULD NOT BE BROKEN BEFORE PLACED IN CONTAINER.

NEWSPAPERS SHOULD BE BUNDLED IN BROWN PAPER BAGS OR TIED WITH A CORD. (NO COLORED OR GLOSSY INSERTS, CARDBOARD, MAGAZINES, BOOKS)

DO NOT LINE CONTAINERS WITH PLASTIC BAGS.

PLEASE CONTINUE TO SUPPORT YOUR LOCAL NON-PROFIT RECYCLING PROGRAMS.

20 Attachment 4

Borough Of Fountain Hill
Lehigh County, Pennsylvania

BOROUGH OF FOUNTAIN HILL RESIDENTS
RECYCLE



ONLY ALUMINUM CANS and TIN CANS



GLASS JARS and BOTTLES (Clear, Brown, and Green)



PLASTIC BEVERAGE CONTAINERS Soda Bottles (green & clear) Milk and Water Others-Detergent & Shampoo Lotion, etc.

*RINSE OUT CLEAN All Bottles, Jars and Cans

*REMOVE Any Lids and Caps From Bottles & Jars. Labels can Remain

*CRUSH Plastic and Cans To Save Space

*PLACE All Recyclables in Your Container.



DO NOT

- MIX TRASH IN WITH YOUR RECYCLABLES
- BREAK BOTTLES

DO NOT PLACE

light bulbs	aluminum foil
mirrors	and plates
ceramics	styrofoam
paint cans	window glass
aerosol cans	plastic wrap
pottery or milk glass	and bags
pesticide, chemical, oil/anti-freeze containers	

IN WITH YOUR RECYCLABLES

place your recyclables on curb with trash for pick-up EVERY OTHER Friday beginning APRIL 3, 1992



NEWSPAPERS Place along side your recycling container - in tied bundles or placed in paper bags.