

AN ORDINANCE OF THE BOROUGH OF EAST PITTSBURGH, COUNTY OF ALLEGHENY, RESCINDING ORDINANCES 735, 801, 801-a 815, 816, 826, 836, 876, 881 AND 915, ESTABLISHING A PROGRAM FOR COLLECTION, STORAGE, TRANSPORTATION, PROCESSING AND DISPOSAL OF MUNICIPAL WASTE AND RECYCLING; PROVIDING FOR THE REGULATION AND REGISTRATION OF COLLECTORS AND HAULERS; PROHIBITING THE DISPOSAL OF DESIGNATED RECYCLABLE MATERIALS WITH MUNICIPAL WASTE; EMPOWERING THE BOROUGH TO ADOPT AND PROMULGATE REASONABLE REGULATIONS AND THE AMENDMENT OF CERTAIN PROVISIONS BY RESOLUTION OF BOROUGH COUNCIL; FIXING PENALTIES FOR VIOLATION OF THIS ORDINANCE; SEVERABILITY; EFFECTIVE DATE

ORDINANCE NO. \_\_\_\_\_

WHEREAS, The Borough of East Pittsburgh is governed by the Borough Code and has authority thereunder to regulate the collection of trash and other refuse (including recyclables) and authority to regulate the charges for any trash and recyclable services provided by the Borough, as well as broad authority to regulate nuisance activities which result from the failure to properly contain and dispose of trash and other refuse (including recyclables) pursuant to specific authority for same found at section 1202 of the Borough Code, including, without limitation, Sections 1202 (2) (regulation of charges in the operation of public services); (3)(fines and forfeitures); (4)(nuisances); (6) (health and cleanliness regulations); (10) (regulation of the accumulation of garbage and other refuse material); (11) (removal of garbage and other refuse material); (45) (garbage and refuse disposal facilities); and 74 (general powers). See, 53 P.S. § 46202 (2), (3), (4), (6) (10),(11) ,(45) and 74; and,

WHEREAS, the Borough recognizes that Article I, Section 27 of the Pennsylvania Constitution, identifies that "the public natural resources are the common property of all the people" and that the "Commonwealth shall conserve and maintain them for the benefit of all the people." and pursuant to such authority, the Borough wishes to protect the environment by providing voluntary recycling as the Borough believes that recycling will reduce the amount of waste disposed of in the landfill, thereby leaving more room for more appropriate waste products and benefiting the environment, and that recycling will preserve and provide steel, aluminum, glass, plastics and other such products for the benefit of the consuming public.

NOW THEREFORE, in consideration of the authority recited herein and other authority available to the Borough under the Borough Code and applicable statutory authority, it is hereby ORDAINED as follows:

Section 1. Title

The short title of this ordinance shall be, "The Borough of East Pittsburgh Municipal Solid Waste and Recycling Ordinance"

## Section 2. Purpose

It is the intent and purpose of this Ordinance to promote the public health, safety and welfare and to eliminate public health hazards, environmental pollution and economic loss by providing that all residential, commercial, industrial and institutional municipal solid waste accumulated or stored upon any property within the municipality shall be collected, transported and disposed of within the following conditions:

- A. All residential properties with 4 or fewer units shall be served by the municipality's contracted hauler.
- B. All residential and nonresidential properties not subject to the municipality's contract shall have contracted waste service with a hauler.
- C. All municipal solid waste shall be disposed of at an approved facility, in accordance with the County Solid Waste Management Plan, as well as municipal, state, federal and county laws and ordinances.

These conditions are established to assure municipal compliance with the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, (P.L. 528, No. 101), "Pennsylvania Act 101."

## Section 3. Definitions

ACT 97 – The Solid Waste Management Act, July 7, 1980, (P.L. 380, No. 97)

ACT 101 - Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, (P.L. 528, No. 101)

BOROUGH – The Borough of East Pittsburgh, Allegheny County, Pennsylvania

BULK WASTE - All waste materials too large for collection in ordinary containers. Examples of bulk waste include but are not limited to: furniture, appliances, carpeting and similar items. Bulk waste shall not consist of any items that may be packaged and disposed of using regular trash collection procedures.

COMMERCIAL - Any establishment engaged in a nonmanufacturing or nonprocessing business including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters. Multifamily dwelling units, manufactured home parks, hotels, motels, mixed use properties (combined business/residential on a single parcel) and farms which use commercial dumpsters shall be considered commercial establishments. Does not include properties where primary permitted use is residential and accessory use is commercial (i.e., home occupations).

CUSTOMER - The owner of any residential, commercial, industrial or institutional property located within the municipality.

CONSTRUCTION AND DEMOLITION WASTE - Lumber, roofing material, sheathing, rubble, broken concrete, macadam, plaster and brick, conduit, pipe, insulation and all other material which results from a construction, demolition or remodeling process.

DWELLING UNIT - One or more rooms on premises which have cooking facilities and are arranged for occupancy by one person, two or more persons living together or one family. Each dwelling unit within a noncommercial building shall be considered an individual residential customer served by curbside refuse.

EXCLUSIVE CONTRACT -An agreement entered into by the Borough, or its designated agent, with a private person or corporation for the collection and disposal of all municipal waste generated within the boundaries of the municipality to the extent provided by this Part and the agreement.

HAULER - A person who collects, transports and/or disposes of municipal solid waste, recyclable materials and bulk waste from residential, commercial, industrial and institutional establishments or community activity. The term may be applied to a person having the exclusive right to collect within the municipality. All such haulers shall comply with the provisions under the Pennsylvania Waste Transportation Safety Act (Act 90), as well as all federal, state, county and local laws, rules and regulations.

INDUSTRIAL -Any establishment engaging in manufacturing or processing including, but not limited to, factories, foundries, mills, processing plants and refineries.

INSTITUTIONAL - Any establishment engaged in service to persons including, but not limited to, hospitals, nursing homes, orphanages, schools and universities.

LEAF WASTE - Leaves, garden residue, shrubbery and tree trimmings, and similar material but not including grass clippings. (Act 101, § 103.)

MULTIFAMILY DWELLING UNIT - A type of residential property either under single ownership or organized as a condominium or cooperative form of housing, which contains five or more dwelling units.

MUNICIPAL SOLID WASTE - Any garbage, refuse, industrial lunchroom or office waste and any other material including solid waste, liquid, semisolid or contained gaseous materials resulting from the operation of residential, municipal, commercial, industrial or institutional establishments and from community activities, 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, waste water treatment plant or air pollution control facility (Pennsylvania Act 101, § 103).[1]

PERSON - An individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution or agency or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

RECYCLABLES - The collection of aluminum, steel, and bimetal cans; newsprint and bundles of magazines; unwanted mail; mixed office paper; paperboard; all plastic bottles (1 through 7); domestic corrugated cardboard; empty aerosol and paint cans; and any other materials per § 1501 of Act 101, and as amended from time to time.

REFUSE - All municipal solid waste which is regulated by Act 101, except the following categories of solid waste:

- (1) Bulk waste, including tires and appliances.
- (2) Construction/demolition waste.

- (3) Sludge.
- (4) Infectious/pathological waste.
- (5) Ash residue.
- (6) Friable asbestos waste.
- (7) Source separated or single stream recyclable materials.
- (8) Household hazardous waste.
- (9) Oversized refuse items.
- (10) Grass clippings.
- (11) Leaf waste.
- (12) Unacceptable waste.

RESIDENTIAL PROPERTY - A "dwelling unit" under single ownership or organized as a condominium or cooperative form of housing, which contains one, two, three or four dwelling units.

RESIDUAL WASTE - Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility, or air pollution control facility, provided that it is not hazardous. The term shall not include coal refuse as defined in the Act of September 24, 1968, (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act." [3] The term shall not include treatment sludge from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law" (Pennsylvania Act 101, § 103). [4]

UNACCEPTABLE WASTE - The following categories of solid waste:

- (1) Hazardous waste.
- (2) Residual waste.
- (3) Unsterilized or unprocessed infectious or pathological waste.
- (4) Chemotherapeutic waste.
- (5) Gas cylinders.
- (6) Explosives and ordnance materials.
- (7) Liquid waste (i.e., containing less than 20% solids by weight or flowable).
- (8) Drums, barrels and buckets unless lids have been removed and interiors cleaned and free of any residue.
- (9) Radioactive materials.
- (10) Any solid waste generated outside of the municipality

#### Section 4. Dumping/Littering

It shall be unlawful for any person to store, dump, discard, or deposit, or to permit the storage, dumping, discarding, or depositing of, any municipal waste or recyclables upon the surface of the

ground or underground within the Borough, except in proper containers for purposes of storage or collection, and except where the waste or recyclables are of such size or shape as not to permit their being placed in such containers. It shall be unlawful for any person to dump or deposit any municipal waste or recyclables in any stream or body of water, or on or near any public or private right-of-way within the Borough.

Every owner of property and occupant thereof responsible for such property's day-to-day operation or maintenance shall pick up and discard in an appropriate receptacle any municipal waste, recyclables, or other debris deposited or accumulated on the sidewalk or gutter in front of or along any street adjacent to such property. All owners or operators of commercial, industrial, institutional and municipal establishments in the Borough shall take all reasonable precautions to prevent the deposition and accumulation of debris on their premises, and in furtherance of that end, shall place appropriate waste containers for municipal waste and recyclables on the sidewalks in front of or adjacent to their premises at a point which will not create a hazard to traffic or pedestrians. Any such receptacles so placed shall be emptied at least weekly and maintained in a neat and clean appearance.

To the extent that bulky items are being placed for pickup in accordance with the terms of this Ordinance, such items must be put out for pickup for no more than 24 hours in advance of pickup and any greater period of time shall constitute dumping or littering in violation of the terms of this Ordinance.

#### Section 5. Preparation and Storage of Municipal Waste

The storage of all municipal waste shall be practiced so as to prevent the attraction, breeding, or harborage of insects or rodents and to prevent conditions which may create potential hazards to the public health, or which may create fire and other safety hazards, odors, unsightliness, or public nuisance.

Any person accumulating or storing municipal waste on private or public property in the Borough for any purpose whatsoever shall place the same, or cause the same to be placed, in sanitary closed or covered containers in accordance with the following standards subject to amendment by Resolution of Borough Council:

- A. Containers used for the storage of municipal waste shall be of metal, plastic or fiberglass construction; rust and corrosion resistant, equipped with fastening lids and waterproof.
- B. All garbage shall be drained of excess liquids and wrapped in paper or be placed in plastic bags before being placed in the waste storage containers described above, and all ashes shall be free of any burning material before being deposited for collection. Lids must be closed on the waste storage containers after garbage is placed in the containers. No additional garbage will be collected outside the containers.
- C. No person, except the occupant of the property on which a waste container is placed, an authorized registered hauler, and any authorized employees shall remove the lids of the container and/or remove the contents thereof.
- D. All hazardous waste, including but not limited to waste of a highly infectious or contagious nature, shall not be stored for ordinary collection, but shall be specially disposed of in

accordance with the directions of the Borough or of any State or Federal authority having jurisdiction thereof.

- E. Bulk containers shall not be permitted to overflow or to have waste strewn or left about them on the ground. Bulk waste items such as furniture, automobile parts, machinery, appliances, and tires shall be stored in a manner that will prevent the accumulation or collection of water, the harborage of rodents, safety hazards and fire hazards. A violation of this provision shall be deemed a violation of this Ordinance by the person on whose property the bulk container is located, if it is located on private property.
- F. Garden clippings and tree trimmings shall be placed in approved containers or shall be cut and tied securely into bundles. Bundles shall be not more than four feet in length, not more than two feet in diameter and not more than 40 pounds in weight.
- G. Construction debris, building materials, automobile parts and tires will not be collected by the municipal solid waste collection system. Construction debris and building materials may not be disposed of on site by burial or burning. Property owners may use the following services for removal of these items:
  - 1. Pick-up by a contractor for disposal at an approved facility.
  - 2. Use of a dumpster or other container for disposal at an approved facility.
  - 3. Donation to an organization that reuses or properly disposes of these types of material.
  - 4. Private haul to a municipal landfill or a proper recovery facility for these types of materials.

#### Section 6. Required Collection

All owners of property within the Borough shall provide for the regular preparation for removal of all municipal waste generated at such properties in one of the approved manners set forth herein.

A. Owners of multi-family residential housing (in excess of four (4) units), commercial, institutional or municipal users:

If a person or establishment (being so authorized by the terms hereof) as identified in Section 6.A above, collects and removes their own municipal waste, they shall do so at a minimum every seven (7) days or at shorter intervals, in order to prevent odors, vermin or accumulations of refuse or garbage that are unsafe, un-sightly, or potentially harmful to the public health. Any municipal waste so removed shall be disposed of in accordance with the requirements of this Ordinance.

The person or establishment (being so authorized by the terms hereof) as identified in Section 6.A above shall submit an annual report of the types of material, and the name of the hauler or facility where the material is delivered.

Annual reports shall be submitted to the municipal office, as specified on forms provided by the municipality on or before January 15 following the year for which the report is due.

B. Owners or occupants of residential housing (one (1) to four (4) units):

Every owner or occupant of residential property and every other person who, or establishment which, does not collect and remove their own municipal waste (as identified in Section 6.A above),

shall use the collection service provided by the Borough for the regular, scheduled curbside collection and removal of municipal waste at least once every seven (7) days. Municipal waste shall be prepared for collection and be collected and removed from such persons' or establishments' property at least once every seven (7) days, except where conditions beyond the control of the registered hauler prevent it from occurring. Containers for collection of Municipal Waste shall be placed at the curb or along a street, alley, or roadway of sufficient width, construction design, and height clearance as to permit all collection vehicles used by the Borough unrestricted access for such collection. Municipal waste for single family residential dwellings will only be collected from closed waste storage containers not exceeding 40 gallons in size and 40 pound in weight. All waste storage containers may not be placed at the curbside prior to 5 p.m. the night before the day of collection. Empty containers must be retrieved from the curbside within 18 hours of the collection time. The schedule for collection shall be established by Resolution of Borough Council. Empty cans remaining uncollected or retrieved for more than 18 hours are subject to penalty under the **Borough's Quality of Life Ordinance**.

C. General Conditions:

No person other than a registered hauler shall collect or remove municipal waste from any other person's property. All agreements for collection, transportation, and disposition of municipal waste other than the collection services provided by Borough shall be by private contract between the owner or occupant of the property where the waste is generated and the registered hauler who is to collect such waste and shall require that the registered hauler supply weigh slips from the appropriate disposal authority to the Borough establishing the quantity and type of municipal waste or recyclables disposed of for purposes of the Borough's records.

Nothing contained herein shall be deemed to prohibit any person from hauling municipal waste on an irregular and unscheduled basis to any facility permitted by the Commonwealth of Pennsylvania, Department of Environmental Protection, provided that such hauling shall be in addition to, and not in place of, the regular removal of municipal waste as required by this section and provided that such is not in violation of any county or other municipal law or regulation.

Nothing in this section shall modify the requirements in this Ordinance pertaining to separation and disposal of recyclables. Nothing in this section shall impair the ability of the Borough to provide a system of placement for removal and public collection of leaf waste, or the Borough residents to utilize such system of public collection of leaf waste, notwithstanding anything herein contained to the contrary.

Section 7. Transportation of Municipal Waste

Any person transporting municipal solid waste within the municipality shall prevent or remedy any spillage from vehicles or containers used in the transport of such municipal solid waste. The haulers shall collect municipal solid waste in vehicles which are suitable for such collection, which are dedicated for use in performance of such collection, and which bear prominent legible marking, signs, or decals identifying them as being municipal solid waste collection vehicles and stating the name and phone number of the hauler. The vehicles shall be securely covered, watertight, strongly built and kept thoroughly cleaned and well maintained. Except for roll-offs, open trucks or trucks covered with tarps will not be used for the collection of municipal solid waste. Open trucks may be used for the collection of bulk waste, provided that the truck is tarped.

Any trucks or other vehicles used for the collection and transportation of municipal waste must comply with the requirements of Act 97, and any department regulations adopted pursuant to Act 97 and must be licensed by the Allegheny County Health Department.

The municipality, or its designated agent, shall have the authority to inspect the vehicles used for the transport of municipal solid waste as it deems necessary to determine compliance with this Section or any other ordinance, resolution and/or regulation of the municipality. The hauler shall correct deficiencies immediately upon notification by the municipality or its designated agent and said vehicle shall not be used for refuse collection until the deficiencies have been corrected.

#### Section 8. Prohibited Activities

The following activities are deemed prohibited and therefore, no person shall:

- A. Accumulate or permit to accumulate, upon any public or private property within the municipality, any garbage, rubbish, bulky waste, or any other municipal or residual solid waste except in accordance with the provisions of this chapter, any department rules and regulations adopted pursuant to Act 97 and the Health Department Rules and Regulations, Article VIII.
- B. Burn any solid waste within the municipality except in accordance with the provisions of this chapter, any department rules and regulations adopted pursuant to Act 97 and the Health Department Rules and Regulations, Article VIII.
- C. Dispose of any solid waste in the municipality except in accordance with the provisions of this chapter, any department rules and regulations adopted pursuant to Act 97 and the Health Department Rules and Regulations, Article VIII.
- D. Haul, transport, collect, or remove any solid waste from public or private property within the municipality without first securing a license to do so in accordance with the provisions of this ordinance.
- E. Scavenge any materials from any solid waste that is stored or deposited for collection within the municipality without prior approval by the municipality.
- F. Salvage or reclaim any solid wastes within the municipality except at an approved and permitted resource recovery facility under Act 97 and any department rules and regulations adopted pursuant to Act 97.
- G. Throw, place or deposit, or cause or permit to be thrown, placed or deposited any solid waste in or upon any street, alley, sidewalk, body of water, public or private property within the municipality except as provided in this chapter.

#### Section 9. Public Litter Baskets

The Borough is hereby authorized to provide for collection of municipal waste from Borough property, to provide public litter baskets on sidewalks in the Borough, and to dispose of such waste in either a receptacle of a registered hauler or at designated disposal sites. Such public litter baskets are not to be used for household waste and any use for this purpose is specifically prohibited and subject to penalties for violation of the Ordinance.

#### Section 10. Roll Off Dumpsters

- A. Any person or entity desiring to store or dispose of construction and/or demolition waste must first apply to the Borough for a permit to put in place a container on public rights of way. It is declared to be the intent of this section that no container in excess of thirty (30) cubic yards



may be placed on public or private property except in compliance with this Section. On private property containers of thirty (30) cubic yards or less may be utilized for a thirty-day (30) period without any permit, so long as same do not constitute or amount to a public nuisance and provided such container is situated on the same building lot where the work is being done. All containers must provide for covers or lids, must be illuminated by reflectors or lights and may not be filled above the level of the lid or cover.

- B. The Building Inspector is hereby authorized to prepare forms for such applications requesting such data as the Building Inspector deems necessary in his discretion, including but not limited to limits of liability of any liability insurance policy requested, a hold harmless provision protecting the Borough, a provision mandating lighting or reflectors on such containers, the placement of containers, warning signs and barricades and whether a cash or security bond to cover damages should be included. A dated application signed by the owner of the land and the applicant, if not the owner, must provide at least the following information:
1. Name and address of the applicant and the owner of the subject real estate; the address where the work is to be done;
  2. The dimensions and capacity of the container to be used, a description of the work to be done to the subject real estate and the length of time anticipated to complete the project;
  3. The site where the applicant wishes to place the container, the duration of time when it will be in place and what materials will be stored in the container.
- C. Based on the application and all the circumstances, the Building Inspector may issue a permit in accordance with this Section. The Building Inspector may place such further restrictions on the permit as they see fit to assure compliance with the standards of this Section. Permits shall be valid for no longer than thirty days; a permit may be renewed by filing an application with the Building Inspector. A fee is hereby set in the amount of \$25.00 for each permit and each renewal, payable upon presentation of the application. Borough Council may change this fee from time to time at its sole discretion by simple Resolution of Council.
- D. The Building Inspector in their discretion may issue a permit, refuse to issue a permit, refuse to renew a permit, move to rescind a permit by taking into consideration the following circumstances, and any other factors or conditions he deems to be relevant:
1. If the container due to its size or proposed location has or likely will unduly interfere with pedestrian or vehicular traffic or parking;
  2. If the applicant's activity of proposed activity produces or likely will produce or contain hazardous or noxious conditions [ smoke, dust, odors];
  3. If the applicant has not reasonably prosecuted the project;
  4. The circumstances surrounding the applicant's need for a container, and the availability of alternate means of storing and disposing of construction and demolition waste.
- E. Any person aggrieved by the decision of the Building Inspector may appeal to the Zoning Hearing Board by filing such appeal in the office of the Borough Secretary and paying an appeal fee as proscribed for appeals to the Zoning Hearing Board within thirty [30] days of the decision of the Building Inspector.

## Section 11. Recycling

The Borough provides to residents a voluntary recycling program. Such program is administered by the contracted hauler. Residents are encouraged to place clean recyclable materials in the designated single stream receptacles found at the municipal property located on Bessemer Avenue.

The Borough reserves the right to create a mandatory recycling program utilizing curbside pickup.

Section 12. Fees

The Borough shall charge annually each dwelling unit a fee for solid waste collection. The fee shall be set by resolution of Borough Council prior to January 1 of the billable year. Fees not paid by the published due date are subject to a late payment fee of thirty-five dollars (\$35) and may be modified by simple resolution of the Borough Council.

Section 13. Violation and Penalty

Any person, firm, business, or corporation who violates any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600, plus court costs and **reasonable attorneys' fees incurred by the Borough in the enforcement proceedings.**

Section 14. Severability

If any portion of this Ordinance is found to be unconstitutional or illegal, it is the intent of Council that it would have ordained the balance of the Ordinance irrespective of the invalid portion.

Section 15. Repealer

The prior Ordinances No. 735, 801, 801-a, 815, 816, 826, 836, 876, 881 and 915 all enacted by the Borough and any prior Ordinances as referenced therein addressing the issue of trash or solid waste are repealed and replaced by the terms of this Ordinance.

This ordinance shall become effective immediately.

ENACTED AND ORDAINED as an Ordinance of the Borough of East Pittsburgh this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

ATTEST:

BOROUGH OF EAST PITTSBURGH

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Borough Manager

President of Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.

BY: \_\_\_\_\_

Mayor

CERTIFICATION

I, Seth Abrams, hereby certify that I am the Manager of the Borough of East Pittsburgh, and that the within Ordinance was enacted at a regular meeting of the Borough Council duly convened, at which a quorum was present and voted in favor thereof.

Certified this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY: \_\_\_\_\_

Manager

DRAFT