

ORDINANCE NO. 434

AN ORDINANCE OF THE TOWNSHIP OF PENN, YORK COUNTY, PENNSYLVANIA, ESTABLISHING A PROGRAM FOR THE COLLECTION OF RECYCLABLE MATERIALS AND FIXING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the Commonwealth of Pennsylvania Act 101 of 1988 requires each Municipality within the Commonwealth to adopt a Recycling Plan governing separation and collection of certain recyclable materials; and

WHEREAS, the York County Solid Waste Authority has a Solid Waste Plan adopted and ordained by Penn Township and approved by the Pennsylvania Department of Environmental Resources (PA DER) requiring each Municipality within the County to regulate separation and collection of recyclable materials designated by the Act of the Commonwealth;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Township of Penn, York County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1. Purpose of Ordinance

The Board of Commissioners finds that the reduction of the amount of solid waste and conservation of recyclable materials is an important public concern and is necessary to implement the requirements of Pennsylvania and the County Plan. The separation and collection of used newspaper, paper, cardboard, glass, cans, and leaf waste for recycling from the residential, commercial, and institutional establishments in this Municipality will minimize the adverse environmental effects of landfilling by reducing the need for landfills and conserving existing landfill capacity, facilitate the implementation and operation of other forms of resource recovery called for by the County Plan, conserve natural resources, and reduce the cost of solid waste disposal generally. The promotion and use of recyclable materials, goods produced from recycled materials, and goods which facilitate recycling, will further serve the same purposes by encouraging and facilitating recycling.

SECTION 2. Definitions

As used in this Ordinance, the following definitions shall apply:

"Act 101" - the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 528, No. 101, as now or hereafter amended.

"Aluminum Can" - shall mean containers which are comprised entirely of aluminum and which contain and formerly contained only non-aerosol edible substances.

"Apartment Building" - a building used for residential purposes with more than three (3) dwelling units, except hotels, motels, tourist cabins, and dormitories.

"Cans" - shall mean containers comprised of aluminum, tin, steel or a combination thereof, which contain or formerly contained only non-aerosol edible substances or such other substances as have been approved for recycling.

"Cardboard" - shall mean all corrugated or other cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but excluding plastic, foam, or wax coated or soiled cardboard.

"Commercial Establishment" - those properties used primarily for commercial or industrial purposes.

"Commingled" - recyclable materials (a) which have been segregated from Regulated Municipal Waste but which have not been separated into different types of recyclable materials and (b) which have been placed in a recycling container for the purpose of collection.

"Corrugated Paper" - layered paper or cardboard in which one or more layers is pressed into parallel grooves or ridges and which is normally used for wrapping, packing, shipping and/or the storage of dry materials.

"County" shall mean the County of York, Commonwealth of Pennsylvania.

"County Plan" - shall mean the County Solid Waste Management Plan for York County as approved by the Pennsylvania Department of Environmental Resources.

"Curbside" - the correct location for the placement of refuse containers and recycling containers for the purpose of collection by the Township collector, which shall be adjacent to the residential unit or such suitable location determined by the Township collector.

"Drop-Off Center" - a facility maintained by the Township for use by Township residents in the disposal of designated recyclable materials.

"Glass" - shall mean all clear (flint) green, and brown (amber) colored glass containers. Glass shall not include crystal, ceramics, light bulbs, and plate, window, laminated, wired, or mirrored glass.

"High Grade Office Paper" - printed or unprinted sheets, shavings or cuttings of sulphite or sulphate ledger, bond, writing, or other paper having similar fibre and filler content, including but not limited to stationery, copy paper and computer paper. Treated, coated, padded and heavily printed stock is not included.

"Institutional Establishment" - those facilities that house or serve groups of people for a common purpose, such as hospitals, schools and nursing homes.

"Leaf Waste" - waste that is primarily composed of leaves.

"Multifamily Unit" - a property with four or more residential units, including without limitation, apartment complexes, condominium complexes, retirement homes and mobile home parks within the Township, excluding farms.

"Municipality" - shall mean the Township of Penn located within the County of York, Commonwealth of Pennsylvania. Also referred to as the "Township".

"Municipal Waste" - any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from 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 Act 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.

"Newsprint" - paper of the type commonly used for the printing of newspapers and newspaper advertising or other supplements, but excluding glossy or coated paper of the type found in magazines and periodicals.

"Other Municipal Waste" - furniture, appliances, building materials, bulky items and similar waste, but not including designated recyclable materials, regulated municipal waste, or leaf waste.

"Person" - any individual, firm, partnership, corporation, associations, institution, cooperative enterprise, municipality, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

"Plastics" - organic, synthetic or processed materials that are thermoplastic or thermosetting polymers of high molecular weight that can be molded, cast, extruded, drawn or laminated into objects, films or filaments.

"Recyclable Materials/Recyclables" - includes clear and colored glass, aluminum cans, plastic (PET) soda bottles, plastic milk and water jugs (HDPE), corrugated cardboard, newspaper, steel and bimetallic cans, and such other materials as the Township may designate.

"Recycling" - shall mean any process by which materials, which would otherwise become solid waste, are collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products.

"Recycling Container" - for residential units, the term "Recycling Container" shall refer to the container supplied and owned by the Township for the purpose of containing for collection those materials to be recycled pursuant to this ordinance. For multifamily units and nonresidential units, the term "Recycling Container" shall refer to a receptacle which is constructed of plastic, metal or fiberglass and is supplied by the collector.

"Scavenging" - the uncontrolled or unauthorized removal of recyclable materials from the curbside or from a drop-off center.

"Solid Waste" - shall mean garbage, refuse, and other discarded materials resulting from industrial, commercial, and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

"Source Separate" or "Source Separation" - the process of separating, or the separation of, materials from Municipal waste at the point of origin for the purpose of recycling.

"Township Collection Service" - a service for the collection of solid waste, recyclables, leaf waste and other municipal waste, which is provided by the Township or the Township collector.

"Township Collector" - a person designated by the Township by means of an independent contract to have the exclusive right and privilege, subject to certain limitations, to collect, haul and/or dispose of residential solid waste and recyclables within the Township of Penn, but shall not be construed as meaning that such person is an employee, official or representative of the Township.

"Yard Waste" - waste that is primarily garden residue, shrubbery and tree trimmings, grass clippings, and other woody debris, but not including leaf waste.

SECTION 3. Establishment of Curbside Program

There is hereby established, within the area of the County comprising Penn Township, a program ("curbside program") for separate collection of designated "recyclable materials" from all non-physically disabled residents of the Municipality located within said area whose solid waste is collected by or on behalf of this Municipality.

SECTION 4. Collection Standards

- a. Collections of recyclable materials pursuant to this section shall be made every week. Collection shall occur in accordance with a schedule of recycling collection areas and dates to be publicly advertised by the Municipality and/or the contractor.
- b. All residents of the Municipality within the area served by the curbside program established pursuant to this section shall commingle all designated recyclables and place them at the location of their refuse collection in the manner described in Section 5 of this ordinance.
- c. All commercial and institutional establishments that currently utilize the existing curbside refuse collection program are required to separate from the wastestream all designated recyclables. Those commercial establishments who contract privately and individually for recycling/refuse collection are required to recycle materials as designated by this ordinance. All commercial or institutional establishments that do not utilize the Township's curbside program are required to provide written documentation as to the type and weight of materials recycled. Reports are due to the Township in a form provided by the Township on a quarterly basis no later than the 15th of January, April, July, and October of each year.
- d. Designated recyclables for this curbside program established pursuant to this section shall consist of the following materials:

PET plastic #1	bi-metal cans	clear glass
HDPE plastic #2	tin cans	brown glass
	aluminum cans	green glass

These materials shall be required to be placed in a commingled container (provided by the Township) for collection by the contractor designated by the Township.

The Township may from time to time designate additional recyclable materials.

SECTION 5. Requirements Applicable to Separation and Collection of Designated Recyclables Curbside Program

All recyclables placed at the curbside by residents for collection pursuant to the curbside program established pursuant to Section 3 of this ordinance shall be prepared for collection in accordance with the following:

- a. Glass and plastic containers shall have caps and lids removed.
- b. Glass, cans, and plastics shall be rinsed free of contaminants.

- c. Glass, cans, and plastics shall be placed in a commingled container to be provided by the Township. If additional storage space is required, a container clearly marked "recyclables" may be utilized as well.
- d. No material shall be placed at the collection point earlier than the evening of the day preceding a scheduled collection day. Material must be placed at the collection point by 7:00 A.M. on the scheduled collection day.

Section 6. Establishment of Public Drop-Off Program for Newsprint and Corrugated Cardboard

- a. There is hereby established a program ("public drop-off program") for the source separation and delivery to a recycling drop-off of newsprint and corrugated cardboard from all residents within the Municipality. The drop-off location is to the rear of the Penn Township Municipal Building, 20 Wayne Avenue, Hanover, Pennsylvania 17331.
- b. All newsprint shall be placed in paper bags or tied in bundles not exceeding thirty-five (35) pounds in weight with dimensions not exceeding three feet by one foot by three feet. Newsprint shall be neatly stacked in the trailer or other structure provided by the Township.
- c. Cardboard shall be flattened and tied in bundles not exceeding thirty-five (35) pounds in weight. Cardboard shall be placed neatly in the shed or other structure provided by the Township.

SECTION 7. Establishment of Drop-Off Program for Apartment Complexes, Condominium Complexes and Mobile Home Parks

- a. There is hereby established a program ("private drop-off program") for the separation and delivery to a recycling drop-off of plastic, glass and cans from all residents of apartment complexes, condominium complexes and mobile home parks within the Municipality.
- b. The owner of or manager of every multi-family unit, apartment complex, condominium complex and mobile home park within this Municipality shall provide and maintain within said complex or park, in a neat and sanitary condition, recycling drop-off to receive all designated recyclables generated by residents of the unit, complex or mobile home park. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the recycling drop-off. Said recycling drop-offs shall be constructed and capable of receiving designated recyclables within ninety days of the effective date of this ordinance.

- c. The number and design of the recycling drop-offs required by this section for each multi-family unit, apartment complex, condominium complex, and mobile home park shall be consistent with guidelines established by Act 101; and with guidelines developed by the County plan. The owner or operator of the unit, complex or mobile home park contracting with a collector for the collection of designated recyclable materials shall prepare such materials for collection in such manner as the collector shall designate.
- d. Designated recyclables for the private drop-off program required by this section shall consist of the following materials:

PET plastic #1	bi-metal cans	clear glass
HDPE plastic #2	tin cans	brown glass
	aluminum cans	green glass

The Township may, from time to time, designate additional recyclable materials.

- e. Newsprint and corrugated cardboard shall be recycled pursuant to Section 6 of this ordinance.

SECTION 8. Mandatory Commercial and Institutional Source Separation Program

- a. There is hereby established a program ("commercial and institutional program") for persons within the Municipality who are not residents and who are not served by the curbside program established pursuant to Section 3 of this ordinance, for the purpose of separating and collecting designated recyclables.
- b. Designated recyclables for the mandatory commercial and institutional source separation program shall consist of the following materials:
 - i. High grade paper, including and limited to white letterhead paper, white bond paper, white typing paper, white copier paper, white note pad paper, white writing paper, white envelopes without glassine windows, other non-glossy white office paper without plastic, computer printout paper, manila folders, computer tab cards, and white onion skin paper;
 - ii. Corrugated cardboard;
 - iii. Aluminum cans;
 - iv. Other recyclable materials as may be designated from time to time by the Township.

- c. The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the person who generated the recyclables ("generator") or the person contractually obligated to the generator to arrange for collection and disposal of its solid waste. Said arrangements may include, without limitation, direct marketing of recyclables, delivery to a drop-off, contracts with solid waste collector/haulers for separate collection of any or all designated recyclables, contracts with other persons for separate collection of any or all designated recyclables, or direct delivery to a Recycling Processing Facility.

SECTION 9. Leaf Waste

Owners, lessees and occupants of residential buildings or apartment buildings, and owners, lessees and occupants of commercial, municipal, or institutional establishments with the Township of Penn shall separate leaf waste and store such leaf waste until collection, unless such persons have otherwise provided for the composting of leaf waste. Collection of leaf waste by the Township shall be in the time and manner publicly advertised by the Township Manager.

SECTION 10. Accumulation and Storage of Designated Recyclable Materials

No person shall accumulate or store designated recyclable materials upon private or public property within the Township except in accordance with the following:

- a. Designated recyclable materials, if stored outside a building, shall be kept in a refuse container until placed at curbside for collection. If such materials are stored inside a building, they shall be kept in a recycling container or any type of container suitable for the purpose. When designated recyclable materials are placed at curbside for collection, they shall be contained in a recycling container or otherwise prepared and contained as provided in Section 5 of this ordinance.

SECTION 11. Prohibited Acts

- a. It shall be unlawful for:
- i. Any person other than the Township collector or those approved by the Township to collect any designated recyclable material which has been placed at the pick-up point for collection or within a recycling drop-off pursuant to this ordinance.
 - ii. Any person to violate or to cause or to assist in the violation of any provision of this ordinance or any provision of the Pennsylvania Act 101 concerning recycling.
 - iii. Any person to place or to cause to be placed any material other than a designated recyclable in or near a recycling drop-off.

- iv. Any person to hinder, to obstruct, to prevent or to interfere with the Township or their personnel or designated contractor in the performance of any duty under this ordinance or in the enforcement of this ordinance.
- b. Recyclable materials that have been scattered or spilled from containers or bundles other than negligence of the recycling contractor shall be replaced promptly by the property owner.
- c. Theft of containers and unpermitted use of containers shall result in maximum penalty.

SECTION 12. Non-Collection of Solid Waste Contaminated by Designated Recyclables

The Township or, at the direction of the Township, the designated contractor collecting solid waste generated within the Township may refuse to collect solid waste from any person who has clearly failed to source separate recyclables designated under an applicable section of this ordinance.

SECTION 13. Other Means of Disposal

Notwithstanding anything herein to the contrary, any resident of the Municipality may donate or sell any recyclable to any other person, whether operating for a profit or not for profit, provided, however, that the person receiving the recyclable shall not under any circumstances collect the donated or sold material from the curbside or from a recycling drop-off without prior written permission from this Municipality for such collection.

SECTION 14. Non-Interference with Existing Contracts

- a. Nothing contained in this ordinance shall be construed to interfere with or in any way modify the provisions of any existing contract which is consistent with the County Plan and in force in the Municipality on the effective date of this ordinance.
- b. No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this ordinance, unless such renewal or such contract shall conform to the requirements of this ordinance.

SECTION 15. Penalties

- a. Any person, firm or corporation who shall violate any provision of this ordinance shall be subject to the penalties for violations as described in Chapter 101 of the Penn Township Code.
- b. Each continuing day of violation of this ordinance shall constitute a separate offense.

SECTION 16. Injunctions; Concurrent Remedies

- a. In addition to any other remedy provided in this ordinance, this Municipality may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this ordinance for an injunction to restrain a violation of this ordinance or the County Plan. In addition to an injunction, the court may impose penalties as authorized by Section 15 hereof.
- b. The penalties and remedies prescribed by this ordinance shall be deemed concurrent. The existence or exercise of any remedy shall not prevent this Municipality or the County from exercising any other remedy provided this ordinance or otherwise provided at law or equity.

SECTION 17. Construction

The terms and provisions of this ordinance are to be liberally construed, so as best to achieve and to effectuate the goals and purposes hereof. This ordinance shall be construed in pari materia with the Act and the Plan.

SECTION 18. Severability

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, said invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application of the ordinance.

SECTION 19. Repealer

Ordinance No. 385 is hereby repealed and all provisions of any other ordinance which are inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 20. Effective Date

This ordinance shall become effective upon final adoption and publication in the manner prescribed by law.

ENACTED AND ORDAINED this 21st day of October, 1991

BOARD OF COMMISSIONERS OF PENN TOWNSHIP

By: David S. Baer
David S. Baer, Vice-President

Attest:

Karen M. Little
Karen M. Little, Secretary