

**PARKESBURG BOROUGH
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 487

AN ORDINANCE OF THE BOROUGH OF PARKESBURG, CHESTER COUNTY, PENNSYLVANIA, IDENTIFYING THE AUTHORITY FOR SUCH REGULATION, DELETING AND REPLACING ORDINANCE NUMBERS 333, 361, 369 373 374, 377 AND 381, ESTABLISHING A PROGRAM FOR COLLECTION, STORAGE, TRANSPORTATION, PROCESSING AND DISPOSAL OF MUNICIPAL WASTE AND RECYCLING, INCLUDING MANDATORY SOURCE SEPARATION AND SEPARATE COLLECTION OF DESIGNATED RECYCLABLE MATERIALS; PROVIDING FOR THE REGULATION AND REGISTRATION OF COLLECTORS AND HAULERS; PROHIBITING THE DISPOSAL OF DESIGNATED RECYCLABLE MATERIALS WITH MUNICIPAL WASTE; EMPOWERING PARKESBURG 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.

WHEREAS, The Borough of Parkesburg, is a Borough and municipality of the Commonwealth with a business address of 315 West First Avenue, Parkesburg, Chester County, Pennsylvania; and,

WHEREAS, The Borough of Parkesburg 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 is likely to be required at some time in the near future to establish a mandatory recycling program pursuant to the requirements of Act 101 of the Pennsylvania General Assembly, 1988 (Act of July 28, 2988 (P.L. 566, No. 101) and any amendments thereto, including the Amendment known as Act 140 which further establishes the importance of recycling and requires through ordinance that all residents, in certain circumstances, have waste and recycling services; 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 through mandatory recycling as the Borough believes that mandatory 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 mandatory 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, be it ORDAINED AND ENACTED and it is hereby ordained and enacted by the council of the Borough as follows:

PART I - GENERAL

1. SCOPE

This Ordinance shall govern and control all aspects of the collection, storage, transportation, processing, and disposal of municipal waste, and recycling, in the Borough of Parkesburg. It identifies and contains regulations applicable to haulers of municipal waste, collectors of recyclables, individuals, commercial, municipal, and institutional establishments, and community activities.

2. PURPOSE

This Ordinance is being enacted in order to establish a program for the collection, storage, transportation, processing and disposal of municipal waste, to implement a recycling program, including mandatory source separation and separate collection of designated recyclable materials, in order to return valuable materials to productive use, to conserve energy, and to protect capacity at municipal waste processing and disposal facilities.

3. DEFINITIONS

As used in this Ordinance, the following terms shall have the meaning indicated:

- A. "Agent" - one who performs an act for his immediate family or for another person gratuitously (without any form of monetary or material compensation therefore).
- B. "Aluminum Cans"- empty, all-aluminum beverage and food containers.
- C. "Applicant" - a person desirous of being registered as a hauler.
- D. "Authorized Collector" - a registered hauler (as defined herein); or a person who, being so authorized by the terms of this Ordinance, removes municipal waste or recyclables from his own premises, as owner of the building or commercial, municipal or institutional establishment or community

activity conducted therein, or as an agent (as defined herein) of another person.

E. "Bi-metallic Cans" - empty food or beverage containers consisting of both steel and aluminum.

F. "Borough" - Borough of Parkesburg, Chester County, Pennsylvania.

G. "Composting" - The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product.

H. "Composting Facility" - A facility using land for processing of municipal waste by composting of vegetative material, including leaves, garden residue and chipped shrubbery and tree trimmings and similar material.

I. "Collector" - a general term referring to any person who collects, for removal from premises, municipal waste or recyclables.

J. "Commercial" - of or pertaining to any wholesale, retail, industrial, manufacturing, transportation, or financial or professional service or office enterprise, business, or establishment.

K. "Community Activity" - an activity or event sponsored or organized by a public or private nonprofit organization for recreational, educational, cultural, or civic purposes, which may be attended by members of the public, whether or not an entrance or participation fee is charged therefore.

L. "Corrugated Paper" - structural paper material with an inner core shaped in rigid parallel furrows and ridges, of the type normally used to make packaging cartons and boxes.

M. "Curbside Collection" - a method of collection of residentially generated municipal waste and recyclables by which the owners or occupants of certain residential properties may dispose of their recyclables by placing them at curbside, at times designated by registered authorized collectors, for collection and removal by an authorized collector thereof for delivery to a recycling center.

N. "Disposal" - the incineration, disposition, injection, dumping, spilling, leaking, or placing of municipal waste into or on the land or water in a manner such that the municipal waste or a constituent thereof enters the environment, is emitted into the air, or is discharged to the waters of the Commonwealth of Pennsylvania.

O. "Disposal Area" - any site, location, area, building, structure, transfer station, or premises to be used for municipal waste disposal.

P. "Garbage" - all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

Q. "Glass Containers" - all empty food and beverage jars or bottles made from silica or sand, soda ash, and limestone, the product being transparent or translucent (either clear, green or brown), excluding, however, blue glass, flat glass, plate, glass commonly known as "window glass", automotive glass, and ceramic and porcelain products.

R. "Grass Clippings" - grass collected as a result of lawn mowing.

S. "High-Grade Office Paper" - any white paper other than newsprint, magazines, or other chemically coated paper or corrugated paper, of the type commonly used for letter-writing stationery, note paper, plain paper photocopying machines, computer printers, and other general-purpose paper, whether or not any printed or written matter is contained thereon.

T. "Institutional" of or pertaining to any establishment engaged in service to persons including, but not limited to, hospitals, nursing homes, orphanages, schools, universities, churches, and social or fraternal societies and organizations.

U. "Landlord" - the owner of residential property or such owner's authorized agent.

V. "Leaf Waste" - leaves and residue thereof.

W. "Magazines" - printed matter, also known as "periodicals", containing miscellaneous written prices published at fixed or varying intervals, printed on glossy or chemically coated paper. Expressly excluded are newspapers and all other paper products of any nature whatsoever.

X. "Multi-Family Housing Property" - a type of residential property either under single ownership or organized as a condominium or cooperative form of housing, which contains four or more dwelling units.

Y. "Municipal" - of or pertaining to any office or other property under the control of any branch or arm of the Federal Government of the United States of America, the Commonwealth of Pennsylvania, or any political subdivision of the Commonwealth of Pennsylvania including, but not limited to the Borough of Parkesburg, any counties, cities, Boroughs, and municipal authorities.

Z. "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" as defined in the Pennsylvania Solid Waste Management Act from a

municipal, commercial or institutional water supply treatment plant, waste water treatment plant or air pollution control facility. The term does not include source separated recyclable materials.

AA. "Newspaper" - paper of the type commonly referred to as "newsprint" and distributed at fixed or stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest. The term "newspaper" expressly excludes magazines, glossy or other chemically coated paper, office paper, and any other paper products of any nature.

BB. "Open Burning" (Fire) - a fire in which any solid waste is burned in the open or in a receptacle other than a furnace or an incinerator permitted by the Pennsylvania Department of Environmental Protection, or Borough Ordinance.

CC. "Person" - any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, 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. In any provisions of this Ordinance prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

DD. "Plastic Containers" - empty plastic food and beverage containers, the specific types of which are PET (soft drink bottles) and HDPE (milk and water jugs, detergent and shampoo bottles) to be designated by resolution of the Borough Council.

EE. "Processing" - any technology used for the purpose of reducing the volume or bulk of municipal waste, or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to transfer stations, composting facilities, and resource recovery facilities.

FF. "Recyclables" - Materials designated as recyclable in this Ordinance, or required by the terms of this Ordinance, any Amendment hereto or designated by Resolution of the Borough to be kept separate from municipal waste and recycled, including leaf waste.

GG. "Recycling" - the collection, separate maintenance, recovery, and sale or reuse of recyclables which would otherwise be disposed of or processed as municipal waste, or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

HH. "Recycling Center" - a facility designed to, and which does, act as a collection center for the processing, storage, and shipment of recyclables.

The term specifically excludes transfer stations and landfills for solid waste and composting facilities and resource recovery facilities; and specifically excludes charitable organizations that accept recyclables for collection but do not process such recyclables.

II. "Registered Hauler" - a person registered with the Borough of Parkesburg to collect, haul, transport and dispose of municipal waste and recyclables.

JJ. "Residential" - of or pertaining to any dwelling unit used as a place of human habitation and which is not commercial, municipal, institutional, or a community activity. Home occupations incidental to the residential use within a building are considered "residential".

KK. "Rubbish" - solid waste exclusive of garbage, (e.g. non-recyclable glass, metal, paper or plastic) and non-compostable plant material, wood or nonputrescible solid waste.

LL. "Scrap Metal" - items constructed completely or in part of metal and not acceptable for recycling.

MM. "Steel Cans" - empty food or beverage containers made of steel, tin-coated steel, or other ferrous metal food or beverage containers.

NN. "Storage" - the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such municipal waste. It shall be presumed that the containment of any municipal waste in excess of one year constitutes disposal. This presumption can only be overcome by clear and convincing evidence to the contrary.

OO. "Transportation" - the off-site removal of any municipal waste at any time after generation thereof.

PP. "Waste" - a material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed of. The term does not include source-separated recyclable materials or material approved by the Commonwealth of Pennsylvania Department of Environmental Resources for beneficial use.

QQ. "Yard Waste" -- garden residues, shrubbery and tree trimmings and similar material, but not including grass clippings.

RR. "Yard Waste Composting Facility" - a facility that is used to compost yard waste.

4. DUMPING/LITTER

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 or 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 on a regular basis 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.

Nothing contained herein shall prohibit a farmer from carrying out the normal activities of his farming operations, including composting and spreading of manure or other farm-produced agricultural waste, provided such activities are conducted in accordance with all applicable laws, rules and regulations.

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 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. 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.

6. REQUIRED COLLECTION AND REGULATION THEREOF

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 fourteen (14) 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.

B. Owners or occupants of residential housing (less than 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 and Recycling 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 36 gallons in size. No more than three waste storage containers are allowed to be set out for collection of municipal waste at one time. All waste storage containers/recycling bins may not be placed at the curbside prior to 4 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 for more than 18 hours are to be removed by the Borough and disposed of by the Borough.

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.

7. TRANSPORTATION OF MUNICIPAL WASTE

Any person transporting municipal waste within the Borough shall prevent or remedy any spillage and leakage from vehicles or containers used in the transport of such municipal waste.

All persons authorized to collect municipal waste shall do so in vehicles that are provided with either closed, covered containers or which have measures taken to prevent leakage and waste from being blown or falling from the vehicle.

The transfer of waste from one collection vehicle to another may not take place in the Borough except on private property in those areas of the Borough designated for such transfer by the Borough. No such transfer may take place on any public right-of-way, and

no such transfer operation may block traffic, create litter, or in any other manner constitute a nuisance, create a health hazard, or violate any other ordinance of the Borough or provision of statutory law.

8. OPEN BURNING

No person shall ignite, cause, feed, permit or maintain any open fire for the destruction of solid waste or recyclables designated in this Ordinance on any property under his control except as permitted and regulated by Borough Ordinance No 440, as amended, and the latest edition of the International Fire Code.

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.

10. COLLECTORS TO FURNISH NAME AND ADDRESS OF PROPERTY OWNERS

Upon direction from the Borough, each registered collector shall furnish to the Borough, on a form to be provided therefor, the name and address of all owners of properties being serviced by such collector.

11. LEAF WASTE, GRASS CLIPPINGS AND YARD WASTE

Unless otherwise provided for composting, all persons shall keep leaf waste, grass clippings and yard waste separate from each other and from all other forms of municipal waste and separate from recyclables. Grass clippings should be left on lawn to compost or be placed in home compost bins for decomposition. Leaf waste shall be set out for collection in a manner to be designated by the Borough and shall be transported by the Borough to a leaf composting facility. Yard waste shall also be set out for collection in a manner designated by the Borough. Nothing herein shall require any person to gather leaf waste or grass clippings or prevent any person from utilizing leaf waste for compost, mulch, or other agricultural purposes.

PART II - RECYCLING

12. SEPARATION OF RECYCLABLES

A. Recyclables shall be kept separate from municipal waste, to the extent required by the following provisions:

1. Owners and occupants of all residential properties subject to the provisions of Section 6.B governing the collection of municipal waste shall keep separate the following recyclables: clear glass containers, brown glass

containers, green glass containers, plastic containers, aluminum cans, bi-metallic cans, corrugated paper, newspapers yard waste and leaf waste.

2. Owners and occupants of all commercial, municipal and institutional establishments and properties and sponsors or organizers of community activities shall keep separate the following recyclables: clear glass containers, brown glass containers, green glass containers, aluminum cans, bi-metallic cans, plastic containers, corrugated paper, newspapers, high grade office paper, yard waste and leaf waste.

a. Commercial, municipal and institutional establishments shall also provide recycling receptacles for patrons' use, such containers shall be placed in the vicinity of convenient public trash containers. In addition, those recycling receptacles shall be in place prior to occupancy. Recycling receptacles shall be clearly labeled as a recycling container.

3. Additionally the Borough may by Resolution enumerate additional recyclables, which will be required to be separated from municipal waste and collected in accordance with this Ordinance.

B. Corrugated paper shall be placed in easy-to-manage bundles not to exceed fifty (50) pounds and kept dry. Glass containers, plastics, bi-metallic cans and aluminum cans shall be emptied and cleaned. Aluminum cans, bi-metallic cans, plastics, glass containers, cardboard and newspaper may be mixed together and placed in containers for collection.. High-grade office paper shall be placed in boxes not to exceed fifty (50) pounds. Recyclables shall not be placed in the same garbage can or other container as, or otherwise mixed with, municipal waste for collection, removal or disposal. Recyclables shall not be placed in plastic bags or other disposable bags or containers made of polyethylene or other similar base.

C. Recyclables may be set out for collection in a manner different from the requirements in paragraph 12.B (above) if an alternative manner is designated by the Borough.

13. DISPOSAL OR PLACEMENT FOR REMOVABLES - RESIDENTIAL (OTHER THAN MULTI-FAMILY HOUSING PROPERTIES EXCEEDING FOUR (4) UNITS)

A. For residential properties other than multi-family housing projects exceeding four (4) units, all recyclables which are required to be kept separate pursuant to Section 12.A, above, shall be placed at the appropriate location on the premises to be collected at times designated by the registered hauler. The frequency of such collection shall not be less than once per month for recyclables and for leaf waste.

14. DISPOSAL OR PLACEMENT FOR REMOVAL OF RECYCLABLES - MULTI-FAMILY HOUSING PROPERTIES EXCEEDING FOUR (4) UNITS

A. For multi-family housing properties exceeding four (4) units, all recyclables which are required to be kept separate from municipal waste pursuant to Section 13.A above, shall either be delivered to a recycling center, or shall be picked up by a registered hauler separately from municipal waste, in a prearranged manner.

The landlord of every multi-family housing property shall require, by a clause in the lease or other enforceable rule or regulation, that the tenants in such property comply with the requirements of this Ordinance governing separation and disposal or placement for removal of recyclables in multi-family housing properties. Every such landlord shall set up a convenient and practical collection system in such properties for the collection, storage and regular disposal or placement for removal of recyclables generated by the residents of such properties.

The collection system must include suitable containers for collecting and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system.

Owners, landlords and agents of owners or landlords who comply with the aforementioned requirements relative to multi-family housing properties shall not be liable for the noncompliance of occupants of their building.

15. DISPOSAL OR PLACEMENT FOR REMOVAL OF RECYCLABLES-COMMERCIAL, MUNICIPAL AND INSTITUTIONAL AND COMMUNITY ACTIVITIES

All recyclables which are required to be kept separate in commercial, municipal, and institutional establishments and community activities pursuant to Section 12.A, above, shall either be delivered directly to a recycling center, or shall be picked up by a registered hauler separately from municipal waste, in a prearranged manner. Commercial, municipal, and institutional establishments and community activities shall not place recyclables within the public right-of-way for curbside collection, such curbside collection being intended solely for the placement of recyclables generated in residential properties other than multi-family housing properties.

16. RECYCLING REPORTS FOR RESIDENTIAL AND MULTI-FAMILY HOUSING PROPERTIES, COMMERCIAL, MUNICIPAL AND INSTITUTIONAL ESTABLISHMENTS AND COMMUNITY ACTIVITIES

A. Every residential, commercial, municipal and institutional establishment and community activity sponsor shall complete a form to be designated "Recycling Report", to be provided by the Borough, which shall indicate where the property's recyclables were delivered. Such report shall provide information on the type and amount of each material recycled, along with such other information as may be required by Resolution of the Borough.

B. The "Recycling Report" and all weigh slips obtained from the facility or facilities to which the recyclables were delivered shall be submitted at least annually to the Borough. For purposes of submitting such weigh slips and Recycling Reports annually to the Borough, the Collector who removed the recyclables from the property shall be the agent for any person occupying a residential dwelling unit, any landlord, and any operator of a commercial, municipal and institutional establishment or the sponsor of any community activity and shall be responsible for completing and submitting such to the Borough. In lieu of the "Recycling Report" the Collector who collected the municipal waste and/or recyclables may report to the Borough on the collector's letterhead, include the year the recyclables were collected and be signed by an agent of the Collector's company. There must be separate reporting for commercial and residential establishments. Each such annual report shall be submitted on or before the 15th day of the first month of each of the following calendar year, for the preceding year and further reports may be required depending upon the reporting requirements of the Borough as established by Resolution. The annual recycling report (or semi-annual depending upon the requirements of the Borough) shall contain a list of the establishments in the Borough, including street addresses, for which the Collector collected municipal waste and/or recyclables.

C. The report shall give the total weight in tons of municipal waste and the total weight in tons of each recyclable material collected by the registered collector in Parkesburg Borough. Weight slips for the waste and recyclables included in the report shall be made available to the Borough upon request.

D. Failure to file the required report in a timely manner shall subject the Collector to penalties provided for in this Ordinance.

17. COLLECTION BY UNAUTHORIZED PERSON

From the time of placement for collection of residentially generated recyclable items for collection in accordance with the terms of this Ordinance, the items shall be and become the property of the Borough or its authorized agent. It shall be violation of this Ordinance for any person unauthorized by the Borough to collect or pick up or cause to be collected or picked up any such items. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

It shall be unlawful for a person to collect, remove, or dispose of municipal waste which contains recyclables required by that person to be separated.

18. PRESUMPTION OF OWNERSHIP OF MUNICIPAL WASTE

The presence of any articles containing a person's name among municipal waste or recyclables shall create a rebuttable presumption, for purposes of this Ordinance, that said municipal waste or recyclables are the property of the person whose name is found therein. This presumption can only be rebutted by clear and convincing evidence to the contrary.

PART III - COLLECTOR'S DUTIES

19. AUTHORIZATION OF COLLECTORS

It shall be unlawful for any person, other than such persons as are duly authorized by the Borough, to collect and to transport municipal wastes of any nature or recyclables within or from the Borough. Authorization shall be given only as set forth below. Authorization to collect, transport, and dispose of municipal waste or recyclables for persons other than one's self or for whom one is acting as an agent (as defined in this Ordinance) may be given only by the Borough through the issuance of a "Hauler's Registration". A person who collects municipal waste and/or recyclables shall apply for and obtain a Hauler's Registration.

All registered haulers shall have an affirmative duty to follow and conduct themselves in accordance with their current registration, and to service each of their customers in accordance with the requirements of this Ordinance, as well as the Ordinances and Regulations of the Commonwealth of Pennsylvania and County of Chester, including any Ordinance under Act 101 which directs the location of disposal for municipal waste or recyclables, and any failure of which shall be a violation of this Ordinance.

All applications for such registrations or permits shall be evaluated and approved in accordance with the following criteria:

A. Hauler's Registration:

1. Hauler's Registration may be issued only to those persons who can comply with the provisions and intent of this Ordinance.
2. Applicants for Hauler's Registration must furnish the following information on a form to be prescribed and provided therefore by the Borough.
 - a. The name, address, and telephone number of the hauler making application.
 - b. The vehicle registration number, state of registration, and the make, model and size of each vehicle to be used for collection and hauling.
 - c. A list of all of the applicant's current customers in the Borough.
 - d. A certificate of the applicant's insurance coverage certifying the maintenance by the applicant of complete third-party comprehensive and liability insurance covering bodily injury and property damage, the limits of which shall be not less than \$500,000/\$1,000,000 for bodily injury and \$50,000 for property damage. Listing Parkesburg Borough as a certificate holder or additional insured.

e. A certificate of the applicant's Workmen's Compensation Insurance as required by law. Such certificate shall list Parkesburg Borough as a certificate holder or additional insured.

f. Any and all additional information, which the Borough may request and deem necessary prior to the issuance of a registration.

3. Hauler's Registration shall be issued on a calendar year basis, but is subject to the following:

a. The Borough reserves the right to enter into an exclusive contract for municipal waste and recycling services or to initiate the public collection of municipal waste and/or recyclables.

4. Conditions relating to Hauler's Registrations:

a. Number of Vehicles: Persons receiving a Hauler's Registration shall not use more vehicles for the collection and hauling of municipal waste and recyclables within the Borough than the number of vehicles listed on the application and on the registration issued. A registration applies only to the vehicles listed thereon.

b. Signs: The registered hauler shall have placed on the doors or each side of the body of each vehicle the name of the hauler, the telephone number of the hauler's office or headquarters, and the type of waste being transported therein (or, if recyclables are being transported therein, then such to be indicated). The size of such lettering shall be no less than six (6) inches in height and clearly legible. Vehicles shall be so marked within ten (10) days after the commencement of their use in the Borough.

c. The registered hauler shall be responsible for maintaining such vehicle for collection in the Borough in good operating condition to assure that the schedule of collections can be maintained. The vehicles must be kept clean and painted so as to present a favorable appearance. The Borough shall have the right to inspect all vehicles prior to the issuance of a registration and during the period the registration is in effect.

d. The registered hauler shall be responsible for the manner in which his employees perform work pertaining to collection, hauling and disposal of municipal waste and recyclables under the terms of this Ordinance.

e. The registered hauler shall comply with the limitations on hours and frequencies of collection set forth in Sections 6, 15, and 25 of this Ordinance. In addition, registered haulers are limited to the collection

of municipal waste or recyclables between the hours of 6 a.m. and 6 p.m.

f. The registered hauler shall pay all costs charged for the use of any disposal facilities, which he utilizes.

g. The registered hauler shall empty bulk containers (such as dumpsters), which have been provided by them to their customers, when such bulk containers become full.

20. REGISTERED HAULERS TO PROVIDE RECYCLABLE REMOVAL SERVICE FOR COMMERCIAL, MUNICIPAL, INSTITUTIONAL ESTABLISHMENTS AND PROPERTIES AND FOR MULTI-FAMILY HOUSING PROPERTIES (EXCEEDING FOUR (4) UNITS)

Every hauler, as a precondition to being registered to do business within the Borough, shall be required to provide to its commercial, municipal, institutional and multi-family housing property customers the service of removing recyclables from their properties. Any such recyclables so removed by registered haulers shall be kept separate from municipal waste and shall be taken to a recycling center for the purpose of recycling. Registered haulers shall take all of their customers' recyclable materials to a recycling center for the purpose of recycling.

21. REGISTERED HAULERS NOT TO ACCEPT UNLAWFULLY DISPOSED-OF RECYCLABLES

No registered hauler shall accept, pick up, or remove any bag or other container of municipal waste which the hauler knows, or has reason to believe, contains recyclables required to be separated. Upon discovery of such recyclables combined with municipal waste placed at curbside or otherwise placed for pickup, the hauler shall affix a tag or sticker to the container containing the recyclables (which tag or sticker will be provided by the hauler), retain a duplicate for his records, and deliver a triplicate to the designated office of the Borough within 48 hours. When the hauler utilizes a tag or sticker pursuant to this section, he shall fill in the information requested thereon, including the address at which the container is located and the reason which led him to know or believe the container contained recyclables (e.g. he saw newspaper or he heard bottles rattling). The hauler shall leave such container with the tag or sticker placed thereon where he found it.

22. UNLAWFUL TO TERMINATE SERVICES OF REGISTERED HAULER FOR COMPLIANCE WITH THIS ORDINANCE

No person shall terminate the services of a registered hauler because of such hauler's compliance with the requirements set forth in Section 21 above.

23. REGISTERED HAULERS TO PROVIDE BULKY ITEMS REMOVAL SERVICE

All registered haulers doing business within the Borough shall make available to their customers the service of removal of "bulky items" not less frequently than once per year.

24. COMPLAINTS

All complaints regarding collection of recyclables or solid waste shall initially be reported to the authorized Collector. Any reasonable complaint shall be given prompt and courteous attention by the authorized Collector. In the case of missed collection, the authorized Collector shall collect from the missed collection site not later than twenty-four (24) hours after the complaint is received. Any complaint which the authorized Collector fails to resolve shall be reported in writing to the Borough.

25. COMMUNITY ORIENTATED CHARITABLE ACTIVITIES

Nothing contained herein shall impair or prohibit any recognized civic, fraternal, charitable or benevolent organization, association or society from undertaking or sponsoring voluntary programs or projects involving the collection of recyclables from the public. Any such collection activity can only occur prior to the recyclable material being placed at curbside or similar location for collection by an authorized Collector. Prior to initiating such activity the organization shall obtain authorization from the Borough.

Nothing herein shall be deemed to prohibit any person from donating or selling any recyclables to individuals or organizations unless or until such recyclables are placed at curbside or similar location for collection by an authorized Collector.

PART IV - MISCELLANEOUS PROVISIONS

26. 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 contracts which are in force in the Borough of Parkesburg 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, storage, transportation, processing and disposal of 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.

27. FEES CHARGED BY BOROUGH FOR TRASH PICKUP

A. The Borough Council shall by Resolution set fees for trash pickup undertaken by the Borough pursuant to the terms hereof which currently are established as \$70.00 per quarter per residential unit or other unit subject to a 25% late fee or penalty if not paid within the month of billing.

B. The Borough Council shall by Resolution set fees for bulk trash pickup undertaken by the Borough. Pursuant to the terms hereto which are currently established as \$10.00 per item capable of being picked up by one employee, \$25.00 per item requiring two employees to pick it up, (such as a couch, large chair or the like) and a \$40.00 dollar fee for any bulk trash item containing refrigerant.

C. Scrap Metal items will fall under bulk item rates.

D. Dumpsters placed on the street for bulk pickup are subject to fees more specifically set forth in the Borough's Parking Ordinance, Ordinance 378, (Regulation 3) currently in effect, and as may be amended by appropriate Ordinance and/or Resolution.

28. REGISTERED HAULERS TO PAY ANNUAL INSPECTION FEE

Any Registered Hauler regulated by this Ordinance shall be required to pay an annual fee to the Borough to cover the costs of inspecting the safety, cleanliness of its equipment and review of and inspection of such Registered Hauler's operational compliance with the requirements of this Ordinance in an amount initially established to be \$75.00 per year, and which is thereafter to be amended and set by Resolution of Borough Council.

29. PROPERTIES WITH UNSAFE ACCESS SUBJECT TO REQUIRED PRIVATE HAULER SERVICE BY RESOLUTION OF BOROUGH COUNCIL

In the event it shall be established to the satisfaction of the Borough Council, in Borough Council's exercise of its discretion, that trash pickup and recycling pickup are unsafe at a particular location (taking into consideration such factors as, but not limited to, an inadequate clearance for the trash truck, inadequate road width, inadequate room to negotiate (including turn-around if necessary), lack of proper road maintenance, lack of snow plowing, etc., (conditions often present in circumstances of undedicated private roads, streets or alleys)), then, the Borough Council may by appropriate resolution determine that property owners in such location shall, upon notice by the Borough Council, be required to establish private hauler service for such location until identified conditions are addressed to remove the basis for discontinuing such service.

30. VIOLATION AND PENALTY

A. No person shall violate any portion of this Ordinance.

B. Prosecution under this Ordinance shall be instituted by any Borough official, and shall be filed in the name of the Borough of Parkesburg, Chester County, Pennsylvania.

C. Enforcement shall be by an action brought before a Magisterial District Judge in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 454(c) (relating to trial in summary cases).

D. Any person violating any of the provisions of this Ordinance shall, upon summary conviction thereof by any Magisterial District Judge, be sentenced to pay a fine of up to \$500.00. Each day that a violation exists shall constitute a separate offense. In default in the payment of any fine imposed hereunder, the defendant shall be sentenced to jail for a period not exceeding thirty (30) days.

E. All fines and penalties collected for any violation of this Ordinance shall be paid to the Borough Treasurer.

F. In addition to or in lieu of an enforcement action before a Magisterial District Judge, the Borough may enforce this ordinance in equity. In the event an abatement notice has been issued, which is being violated, or in any other appropriate circumstance, any Borough official is hereby authorized on behalf of the Borough to institute an action in equity for an injunction to enforce compliance herewith and/or to restrain continuous violations of this Ordinance.

G. For purposes of this section, the doing of any act or thing prohibited by any provision of this Ordinance, or the failure to do any act or thing as to which any provision of this Ordinance created an affirmative duty, shall constitute a violation of the Ordinance, punishable as herein stated.

31. SEVERABILITY

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part or provision had not been included herein.

32. ORDINANCE NUMBERS 333, 361, 369, 373, 374 377 AND 381 REPEALED

The prior Ordinances No. 333, 361, 369, 373, 374 and 381 all enacted by the Borough and any prior Ordinances as referenced therein addressing the issue of trash, as well as Ordinance 377 (addressing Recycling) are repealed and replaced by the terms of this Ordinance.

33. EFFECTIVE DATE

This Ordinance shall become effective immediately upon passage.

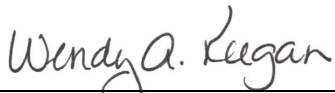
THIS ORDINANCE IS ORDAINED AND ENACTED THIS 17TH DAY OF MAY, 2010

PARKESBURG BOROUGH COUNCIL



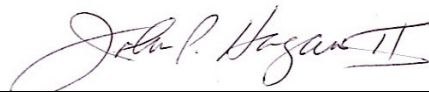
MELINDA B. KEEN, President

ATTEST:



WENDY A. KEEGAN, Secretary

Approved this 17th day of May, 2010.



JOHN P. HAGAN, II, Mayor