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PART 1

REFUSE AND RECYCLING

A. Introduction.

§101. Short Title.

This Part shall be known as the “Borough of Wyomissing Refuse and Recycling Ordinance.” (Ord. 1239, 10/14/2003, §1)

§102. Definitions.

The following words and phrases, when used in this Part, shall have the following meanings:

ACT 101 — Act 101 of 1988, the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (35 P.S. §4000.101-4000.1904), as amended.

ALUMINUM CANS — clean, nonaerosol and empty all-aluminum beverage and food containers.

ASHES — the residue from burning of coal, wood or other combustible material.

BIMETALLIC CANS — empty food or beverage containers consisting of steel and aluminum.

BOROUGH — the Borough of Wyomissing.

COMMUNITY ACTIVITIES — Events sponsored in whole or in part by a municipality, or conducted within a municipality and sponsored privately, which include, but are not limited to, fairs, bazaars, socials, picnics and organized sporting events that will be attended by 200 or more individuals per day. [Ord. 1355]

CONTRACTOR — the person with whom the Borough shall enter into a contract for refuse collection and recycling collection service, including his employees.

CORRUGATED PAPER — structural paper material with an inner core shaped in rigid parallel furrows and ridges.

GLASS CONTAINERS — clear, green or brown glass bottles and jars. Expressly excluded from this definition of glass are blue glass, lead crystal, porcelain, ceramic products, tempered or plate glass together with fluorescent and incandescent lighting bulbs.

HAZARDOUS WASTE —

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A. The term includes garbage, refuse and sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operations and from community activities, or a combination of these factors which, because of its quantity, concentration or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or morbidity in either an individual or the total population.
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

B. The term does not include coal refuse as defined in the Coal Refuse Disposal Act (52 P.S. §§30.51-30.62); treatment sludge's from coal mine drainage treatment plants, disposal of which is being carried on, under and in compliance with a valid permit issued under the Clean Streams Law (35 P.S. §§691.1-691.1001); solid or dissolved material in domestic sewage, or solid dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under §402 of the FWPCA (33 U.S.C.A. §1342) or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C.A. §§2011-2394).

HIGH GRADE OFFICE PAPER — all white paper, bond paper and computer paper used in large apartment/condominium type properties, large commercial and industrial properties and institutional properties.

LEAF WASTE — Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings. [Ord. 1355]

NEWSPAPERS — paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded from this definition of newspapers are magazines and glossy inserts.

PERSON — any individual, association, partnership, firm or corporation.

PLASTIC CONTAINERS — empty and clean consumer product containers made of polyethylene terephthalate (PET), polypropylene (PP), high density polyethylene (HDPE) and low density polyethylene (LDPE) including, but not limited to, plastic bottles used as containers for soda, milk and other consumer food products and for certain household cleaning products and personal care products.

RECYCLABLES/RECYCLABLE MATERIALS — those materials specified by the Borough of Wyomissing for separation from refuse for collection, removal and disposal as part of a recycling program.

RECYCLING — The collection, separation, recovery and sale or reuse of metals, glass, paper, plastics and other materials which would otherwise be disposed or processed as municipal waste. [Ord. 1355]

REFUSE — all ashes, garbage and/or rubbish; but excluding recyclable materials. Refuse shall not include any items which the Borough deems to be hazardous.

RUBBISH — all solid household wastes (excluding sanitary waste) including cans, cardboard, glass, metal, paper, tires, plastics, wood, household accumulations, stones, rocks, brick, plaster, broken concrete and/or earth.

STEEL CANS — clean, nonaerosol and empty all-steel (ferrous metal) beverage and food containers.

YARD WASTE — Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material. [Ord. 1355]

(Ord. 1239, 10/14/2003, §1; as amended by Ord. 1355, 7/9/2013, §1)

B. Refuse.

§111. Require Refuse Collection Participation by Residential and Commercial Property Owners.

- A. All owners of Residential Properties in the Borough shall participate in the Borough's Residential Refuse Collection and Disposal Program. For the purpose of this Ordinance, the term Residential Properties shall mean and include all single family dwellings as well as all multi-family dwellings that include not more than 4 units. The fact that a residential property houses a "home based business" does not exclude it from constituting a Residential Property.
- B. All owners of Commercial Properties in the Borough shall separately contract with a refuse hauler permitted or licensed by the State under Act 90 Waste Transportation Safety Act to have its refuse collected and disposed of not less frequently than once per week. For the purpose of this Ordinance, the term Commercial Properties shall mean and include all properties that are not Residential Properties that generate "municipal waste" within the meaning of Pennsylvania law.

(Ord. 1239, 10/14/2003, §1; amended by Ord. 1355 7/9/2013, §3 and §4)

§112. General Refuse Regulations.

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The following regulations shall be followed in dealing with refuse:

- A. Garbage shall be drained and stored in durable watertight containers with handles and tight-fitting covers.
- B. Ashes shall be stored in fire-resistant containers equipped with handles and tight-fitting covers. Ashes containing hot embers shall not be placed out for collection until they have been adequately quenched and cooled.
- C. Rubbish shall be stored in durable containers with tight-fitting covers.
- D. No person shall place, throw or deposit refuse in or along any street, alley, road, highway or public way within the limits of the Borough, unless it is placed in a proper refuse container for the purpose of collection.
- E. No person shall place, throw or deposit refuse in or upon any Borough owned property, park land or recreation area, unless it is placed in a proper refuse container provided by the Borough for such purpose.
- F. No person shall place, throw or deposit refuse in or upon any private property of another, unless it is placed in a proper refuse container for the purpose of collection with the consent of such property owner.
- G. No person shall place, throw or deposit refuse in or upon any stream or any other body of water within the Borough.
- H. Bulky rubbish including, but not limited to, discarded furniture and large household appliances (refrigerators, washing machines, dryers, bathtubs, sinks, commodes) shall not be allowed to accumulate on any premises.
- I. All refuse receptacles or containers shall be provided by the owner, tenant or occupant of the premises, unless otherwise specified.
- J. The storage of all refuse by residents of the Borough shall be practiced so as to prevent the attraction, harboring or breeding of insects and/or rodents or vermin, and to eliminate conditions harmful to the public health or which create safety hazards, odors, unsightliness and/or public nuisances.
- K. Residents shall provide a sufficient number of containers necessary to comply with subsection (J), above to contain all refuse generated between regularly scheduled collections.
- L. No person shall place, throw or deposit any refuse originating outside the Borough in any container or otherwise so as to cause or attempt to cause such refuse to be collected at the cost of the Borough as part of the municipal collection, nor shall any person entitled to such municipal collection al-

low or consent to the throwing, placing or depositing of such refuse for such purpose.

- M. No more than five (5) containers of refuse shall be collected at any Borough Residential Property address on any scheduled collection date. [Ord. 1355]
- N. Refuse shall not be placed at curb or alley for collection earlier than noon (12:00 p.m.) on the day prior to scheduled collection without specific permission from the Borough.

(Ord. 1239, 10/14/2003, §1; as amended by Ord. 1355, 7/9/2013, §5)

C. Recycling.

§121. Borough Recycling Regulations and Requirements.

The Borough hereby establishes recycling regulations and requirements for all properties in the Borough of Wyomissing. It shall be the duty of every property owner in the Borough wherein recyclables are generated and/or accumulated to provide for the collection and recycling of recyclables listed in Section 124 herein in accordance with the provisions of this Part and Act 101.

(Ord. 1239, 10/14/2003, §1 as amended by Ord. 1355, 7/9/2013, §6)

§122. Borough Recycling Collection Service.

All properties in the Borough which receive Borough refuse collection service shall also receive Borough municipal recycling collection service. Such service shall be in accordance with the terms and conditions of Borough Specifications for the Collection, Removal and Disposal of Recyclable Materials.

(Ord. 1239, 10/14/2003, §1)

§123. Private Recycling Programs.

Those properties in the Borough not receiving municipal recycling collection services (non-Residential Properties, including but not limited to, multi-family dwellings with more than 4 units, large apartment and condominium type properties, large commercial and industrial properties and institutional properties) shall establish and maintain their own private collection recycling programs of recyclables listed in Section 124 herein in accordance with the provisions of this Part and Act 101. All such properties shall submit annual reports regarding their recycling programs and shall provide information as requested by the Borough.

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(Ord. 1130, 2/12/1991, §3; as amended by Ord. 1309, 12/14/2010, §1; and by Ord. 1355, 7/9/2013, §7)

§124. Recyclable Materials.

1. Recyclables for the Borough recycling collection service and for private recycling programs shall be:

Aluminum and tin cans
Glass bottles and jars (clear, green and/or brown)
Plastic containers
Newspapers
Corrugated paper (cardboard)
Office paper
Leaf waste

All materials must be prepared for collection in accordance with applicable market requirements, e.g., bottles, cans and jugs must be rinsed out, and newspapers must be bound or placed in paper bags.

2. Private recycling programs must include, as a minimum, aluminum cans, corrugated paper, high grade office paper and leaf waste.
3. The Borough may, from time to time, designate other materials as recyclable materials.

(Ord. 1239, 10/14/2003, §1; as amended by Ord. 1309, 12/14/2010, §2; and by Ord. 1355, 7/9/2013, §8)

§125. Separation and Collection of Leaf Waste.

Leaf waste shall be separated from refuse and the Borough shall provide scheduled curb or alleyside collection once a week from March through December. All leaf waste must be placed in biodegradable leaf waste bags approved by the Borough or such other collection receptacle as specified by the Borough, with the exception of large shrub and tree branches, which must be cut into lengths, no longer than four feet and bound with rope or twine. The Borough shall make the biodegradable leaf waste bags available to residents for purchase. Leaf waste shall be collected for composting.

(Ord. 1239, 10/14/2003, §1; as amended by Ord. 1309, 12/14/2010, §3 and by Ord. 1355, 7/9/2013, §9 and §10)

§126. Recycling Collection.

Recycling shall not be placed at curb or alley for collection earlier than noon (12:00 p.m.) on the day prior to scheduled collection without specific permission from the Borough.

(Ord. 1239, 10/14/2003, §1)

§127. Recycling Containers.

Recycling containers were distributed to residents at the initiation of the recycling program, and are the property of the Borough of Wyomissing. Replacement or additional containers will be sold to participants at the same cost paid by the Borough.

(Ord. 1239, 10/14/2003, §1)

§128. Ownership and Responsibility for Recyclables.

All recyclables placed out for the Borough municipal recycling collection shall be owned by and be the responsibility of the owner and/or occupant of the property accumulating and storing such recyclables until the same are collected. The contractual arrangements between the Borough and the contractor providing municipal recycling collection service shall govern whether ownership of such recyclables rests with the Borough or the collector upon his acceptance and collection of same.

(Ord. 1239, 10/14/2003, §1)

§129. Authorized Contractors.

It shall be unlawful for any person, other than the contractor authorized by the Borough to provide municipal recycling collection service, to collect, transport, process or market recyclables from those properties receiving the Borough municipal recycling collection service; provided, however, this Section shall not prohibit the Borough resident or property owner, who is not regularly engaged in the business of refuse collection/recycling, from recycling his/her own personal recyclables in a manner separate from the Borough recycling collection.

(Ord. 1239, 10/14/2003, §1)

§130. Unlawful Deposit of Recyclables.

It shall be unlawful for any person to deposit for collection any recyclables not generated at the property from which collection is made.

(Ord. 1239, 10/14/2003, §1)

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§130.A. Large Gatherings.

Persons responsible for public or private gatherings within the Borough of 200 people or more shall separate from other municipal waste generated at such gathering, all Aluminum cans, clear glass, newspapers, office paper, cardboard and any other items required by the Borough under Section 124 hereof or by Pennsylvania law to be separated from the Municipal Waste stream, and shall store such materials until collection thereof by the Borough or by a private hauler of recyclable materials, as applicable.

(Ord. 1355, 7/9/2013, §11 and §12)

D. Fees.

§131. Imposition of Fee.

The Borough of Wyomissing hereby imposes an annual refuse/recycling fee upon the owners of all properties in the Borough which receive municipal refuse collection and recycling collection service. For the purpose of this Part, undeveloped lots shall not receive municipal refuse collection and recycling collection service nor be subject to the refuse/recycling fee. The amount of the annual refuse/recycling fee shall be determined by resolution approved by Borough Council.

(Ord. 1239, 10/14/2003, §1)

§132. Application of Fee.

All refuse/recycling fees collected pursuant to the provisions of this Part shall be applied toward the cost of municipal refuse/recycling collection and/or disposal services.

(Ord. 1239, 10/14/2003, §1)

§133. Billings.

The Borough shall send billings for the annual refuse/recycling fee to all affected property owners in a calendar year annual basis or as otherwise designated by Borough Council. Payments shall be due within thirty (30) calendar days of the billing date. Any property owner failing to make payment within the allotted time shall be subject to a penalty charge of ten percent (10%) of the refuse/recycling fee billing. All delinquent refuse/recycling fees shall be collected by the Borough in such manner as authorized by laws, including suit in assumpsit and/or the filing of a municipal claim in the office of the Prothonotary of Berks County. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. 7101 et seq, 53 P.S. 7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bill is paid and recovery of all charges, costs, expenses and attorneys fees incurred in the recovery of the account.

(Ord. 1239, 10/14/2003, §1; as amended by Ord. 1324, 12/13/2011, §1)

§134. Termination of Services.

The Borough reserves the right to terminate municipal refuse collection and recycling collection services to any property which has not paid the required refuse/recycling fee. In the event service is discontinued to any property for nonpayment of the refuse/recycling fee, the property owner shall be responsible for disposing of all refuse and recyclables in a proper manner, and failure to do so shall be deemed to be a public nuisance and a violation of this Part and be punishable as such.

(Ord. 1239, 10/14/2003, §1)

§135. Effective Date.

The refuse/recycling fee imposed hereby shall become effective for the calendar year commencing January 1, 1991. The annual refuse/recycling fee imposed hereby shall continue without annual reenactment for each and every successive Borough fiscal year thereafter.

(Ord. 1239, 10/14/2003, §1)

E. Administration and Enforcement.

§141. Enforcement Officer.

That person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part shall be responsible for the administration and enforcement of this Part.

(Ord. 1239, 10/14/2003, §1)

§142. Penalties.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 1239, 10/14/2003, §1)

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PART 2

PLACING OF CONTAINERS AND DUMPSTERS ON PUBLIC STREETS

§201. Containers and Dumpsters on Public Streets.

No person shall be permitted to place a container or dumpster measuring in excess of eight cubic feet for the storage of garbage, rubbish, special waste or solid waste on any public street without first obtaining a permit from the Borough.

(Ord. 1183, 3/11/1997, §1)

§202. Permit.

A person may obtain a permit for the temporary storage of garbage, rubbish, special waste or solid waste for a period not to exceed 10 calendar days by paying a permit fee of \$15 per container or dumpster and completing the necessary application. The permit may be applied for by the owner of the container or dumpster, the owner of the property site and/or the intended user of the container or dumpster. If it still is necessary to keep the container or dumpster on the public street after the initial permit's expiration, another permit shall be obtained. At the Borough's discretion, permit renewals may be granted for additional 10 calendar day time periods by paying a permit renewal fee of \$5 per container or dumpster.

(Ord. 1183, 3/11/1997, §2)

§203. Location.

The location that the container or dumpster is to be placed shall be approved in advance by that person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part. That person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part shall consider the container's or dumpster's size, the width of the public street for the free passage and movement of all necessary vehicles, visibility of the container or dumpster itself, and possible obstruction to visibility that the container or dumpster may cause including, but not limited to, emergency fire equipment and other truck traffic. All containers or dumpsters having a permit for location in a public street shall be placed immediately adjacent to the curb where a curb exists or immediately adjacent to the public street's edge where no curb exists. At no time shall a container or dumpster pose a hazard to vehicular traffic, block or impede vehicular traffic on a public street, or block or restrict ingress or egress to properties, including driveways and points of entry.

(Ord. 1183, 3/11/1997, §3; as amended by Ord. 1192, 4/14/1998, §2)

§204. Warning Devices.

Two amber flashing lights shall be placed at each end at or near each of the four corners of the container or dumpster with the exception of one-way streets, in which case three amber flashing lights shall be required, two facing the on-coming traffic and one on the opposite end, street side corner. These flashing lights shall flash continuously and be the responsibility of and maintained by the person that acquires the permit.

(Ord. 1183, 3/11/1997)

§205. Responsibility.

1. The person named on the permit shall assume full responsibility for the container or dumpster and any and all potential and actual liability related to the placement of that container or dumpster on the public street.
2. The container or dumpster should be sealed with a locking device when not in use, to avoid acts of vandalism, arson, criminal mischief, trespass, etc.
3. Any container or dumpster receiving a permit shall at all times be kept in a clean and sanitary condition, including control for odors and smells.
4. All containers and dumpsters shall be covered at all times when in use.
5. Under no circumstances may hazardous materials of any type be stored in a container or dumpster.

(Ord. 1183, 3/11/1997, §5)

§206. Removal.

Upon expiration of the permit, or any permit renewal, the container or dumpster shall be immediately removed from the public street by the permit holder or person owning the property.

(Ord. 1183, 3/11/1997, §6)

§207. Violation.

1. Any violation of the provisions set forth in this Part may result in the immediate removal of the container or dumpster at the expense of the owner of the container or dumpster and/or the person whom acquired the permit and violations being issued against the property owner, the owner of the container or dumpster and/or the person responsible for the placement of the container or dumpster.

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2. Any person who shall violate the provisions of this Part shall, upon conviction, be sentenced to pay a fine of not more than \$500 for each and every day of violation and costs of prosecution, or, in default of payment of these fines and costs, to undergo imprisonment in Berks County Prison for not more than 30 days.

(Ord. 1183, 3/11/1997, §7)

PART 3

DESIGNATION OF DISPOSAL FACILITY

§301. Definitions.

For purposes of this Part 3, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

ACT 101 — the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 528, as now or hereafter amended.

BOROUGH — the Borough of Wyomissing.

BOROUGH MUNICIPAL WASTE — municipal waste generated from residential establishments within the Borough and collected by the Borough or by a third party pursuant to a contract with the Borough.

DESIGNATED DISPOSAL FACILITY — the Pioneer Crossing Landfill, a municipal waste landfill in Exeter Township, Pennsylvania, operating under Department No. 100346.

The terms “disposal,” “Department,” “landfill,” “municipal waste,” “municipal waste landfill,” “permit” and “person,” shall be defined as they are in the Solid Waste Management Act, Act 97 of 1980, 35 P.S. §6018.101 et seq., (“Act 97”) and in the Department regulations promulgated thereunder, 25 Pa. Code §271.1 et seq.

(Ord. 1243, 12/29/2003, §1)

§302. Designation of Disposal Facility.

Pursuant to §304(d) of Act 101, the Borough hereby designates the Pioneer Crossing Landfill, a Department permitted municipal waste landfill that operates under Permit No. 100346 in Exeter Township, Berks County, Pennsylvania, for the disposal of Borough Municipal Waste whether that waste is collected by the Borough or by a third party pursuant to a contract with the Borough.

(Ord. 1243, 12/29/2003, §1)

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§303. Payment of Disposal Fees.

The Borough shall pay for the costs to dispose of Borough of municipal waste at the designated disposal facility whether that waste is delivered by the Borough or by a third party pursuant to a contract with the Borough. The Borough shall not pay for the cost to dispose of Borough municipal waste at a facility other than the designated disposal facility.

(Ord. 1243, 12/29/2003, §1)

§304. Regulation.

The Borough shall have the power to adopt rules and regulations relating to this Part and to the use of the designated disposal facility.

(Ord. 1243, 12/29/2003, §1)

§305. Construction.

The terms and provisions of this Part are to be liberally construed, so as to best achieve and to effectuate the goals and purposes hereof. This Part shall be construed in pari material with Act 97 and Act 101.

(Ord. 1243, 12/29/2003, §1)