

CHAPTER 20

SOLID WASTE

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Part 1
General Regulations

§101. Definitions. The following words and phrases when used in this Part shall have, unless the context clearly indicates otherwise, the meanings ascribed to them in this Section:

ANNUAL ASSESSMENT - An annual charge paid to the Borough for each dwelling unit or entity, regardless of whether the dwelling unit or entity is occupied, for the collection of garbage and refuse by the Borough of Emmaus or its contractor. [Ord. 1057]

CONTRACTOR - The person, firm or corporation that has been authorized by the Borough by contract to collect, transport and dispose of municipal solid waste within the Borough of Emmaus.

COMMERCIAL ESTABLISHMENT - Any establishment engaged in a nonmanufacturing or non-processing business, including, but not limited to, stores, markets, offices, restaurants, theaters, and any other business activity, including home offices and home occupations. [Ord. 1057]

DWELLING UNIT - A group of rooms located within a structure and forming a single habitable unit for the exclusive use of the occupants thereof, with facilities which are used for and intended to be used for living, sleeping, cooking and eating.

ENTITY - Any single-family dwelling, multi-family dwelling, rooming units, commercial establishments, institution, or any other legally recognized person, corporation, partnership, or such other arrangement obtaining legal recognition. [Ord. 1057]

GARBAGE - All animal and vegetable wastes attending or resulting from the handling, dealing, storage, preparation, cooking and consumption of foods.

GROUP HOME - Residential clients and attendant staff, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship designed to provide organization and stability.

INDEPENDENT HAULER - A person, firm, or corporation, other than the Borough's contractor, that a commercial establishment, an industrial establishment, institution, school, nursing home, rest home, funeral parlor, doctor or dental office, or multi-family dwelling has contracted with to collect, transport and dispose of its solid waste. [Ord. 1057]

INDUSTRIAL ESTABLISHMENT - Any establishment engaged in manufacturing or processing including, but not limited to, factories, foundries, mills, processing plants, fish farms, refineries and the like.

MULTI-FAMILY DWELLING - Any building under one roof which contains two (2) or more complete dwelling units.

REFUSE - The collective term applying to rubbish, ashes, paper products, rags, street sweepings, excelsior, straw, boxes, old clothes, shoes, leather scraps, pieces of carpet, cloth, glass, china, wood, sand, brick, tile, etc., and all waste material and riffraff too large for collection in containers, such as furniture, tanks and appliances.

YARD WASTE - Any leaves, garden residues, grass clippings, shrubbery, tree trimmings and Christmas trees.

(Ord. 964, 4/9/2003, §101; as amended by Ord. 1057, 9/21/2009, §101)

§102. Administration.

1. The Borough is authorized to award a contract for the collection, removal, transportation and disposal of municipal waste generated from single-family dwellings, dwelling units, group homes, multi-family dwellings and commercial establishments as well as any other type of entity the Borough deems necessary or acceptable. Such contract shall contain provisions to be performed and carried out by contractors in compliance with all Borough ordinances.

2. The Borough Council shall, prior to the commencement of a calendar year, enact a resolution determining the "annual assessment" for solid waste collection in the Borough of Emmaus. The assessment shall be for the purpose of determining the amount to be paid to the Borough, under the terms of this Chapter, for the collection, removal, transportation, and disposal of municipal solid waste, including all refuse and recyclables, as required by this Chapter. [Ord. 1057]

3. The following entities shall pay one Annual assessment for each calendar year, subject to the payment criteria set forth in §104 of this Chapter.

A. Single-family dwelling.

B. Each unit in a multi-family dwelling, with the owner of the property being primarily liable for payment of the assessment.

C. Commercial establishment that is not a home occupation or a home office, or any other type of home-based business.

D. Churches and non-profit organizations that are not classified as a home occupation or a home office, or any other type of home-based activity.

E. Hotels, rooming homes, bed and breakfasts, and group homes.

All such establishments shall comply with all recycling ordinances, laws, rules, and regulations.

[Ord. 1057]

4. Any building or structure containing multiple businesses or commercial establishments shall be assessed one annual assessment for each separate business or commercial establishment in or on the building or structure. [Ord. 1057]

5. Any building or structure containing a dwelling unit or units and a commercial unit or units shall be assessed one annual assessment for each dwelling unit or commercial unit in or on the building or structure. [Ord. 1057]

6. The owner or possessor of a dwelling unit that is used as a home office or a home occupation, or any other type of home-based business or activity, shall be assessed one and one-quarter (1 1/4) of an annual assessment for refuse services at the owned or possessed property. [Ord. 1057]

7. The Borough of Emmaus shall not collect garbage or refuse for any industrial establishment, any schools, nursing homes, rest homes, funeral parlors, doctor or dental offices, or any establishment creating medical, dental or animal waste.

8. Any commercial establishment, business or multi-family dwelling owner may be excluded from paying the annual assessment for the collection of garbage, refuse, and recyclables under this Part if the entity furnishes, on an annual basis, to the Borough Manager or his or her designee, a notarized certification in a form prescribed by the Borough, confirming that the property is obtaining dumpster service being provided by the contractor or by an independent hauler, which certification shall state:

A. The name, address, contact person, phone number, and email address of the independent hauler.

B. A description of the manner in which recyclables will be collected, transported, removed and disposed from the premises, including, but not limited to, the containers that will be used, a description of the collection method, and the frequency of collection.

C. That if there is any material change in the collection of refuse or recyclables the entity completing the form will immediately notify the Borough of the change.

D. That the collection of refuse and recyclables will not have an interrupted period of collection during the calendar year for which the form is submitted.

E. That the collection, transportation, removal, and disposal of all solid waste from the premises will conform to and be in compliance with all local health regulations, the Borough's Solid Waste Ordinance, and any and all State and Federal laws, rules and regulations.

F. That the entity obtaining dumpster service releases the Borough from the collection, transportation, removal and disposal of any solid waste, including recyclables, from the premises serviced by the contractor or independent hauler.

G. That the entity obtaining dumpster service authorizes the Borough, its employees, or its designees to enter upon the premises of the entity or such location where the dumpster service is located to inspect the refuse and recyclable collection system in place to ascertain its conformity to this Ordinance and all applicable laws, rules, and regulations.

Any establishment electing to obtain dumpster service pursuant to this Section shall pay to the Borough an annual administrative fee for each building or occupied structure serviced to offset the Borough's cost for administering, managing, and monitoring compliance with Federal, State and local refuse disposal and recycling requirements.

[Ord. 1057]

9. All industrial establishments, schools, nursing or rest homes, funeral parlors, and medical and dental offices shall provide the Borough Manager with written proof of arrangements those entities have made with an independent hauler for the removal of refuse and garbage. Such establishments

agree that they will comply with State and local health regulations, and release the Borough from the collection of any garbage or refuse from its establishment.

10. All refuse and garbage collected by the contractor of the Borough of Emmaus shall be collected, conveyed and disposed of by the Borough of Emmaus through its contractor, provided that the Borough may require any entity owning or occupying any premises that has accumulated garbage and refuse at the time of collection in excess of six (6) thirty-gallon containers, or their equivalent by weight and volume, to personally collect, convey and dispose of such garbage and refuse in accordance with all regulations for collection, conveyance and disposal prescribed in this Part or hereinafter directed by the Borough Council. In addition, said entity may be required to pay such additional fees for the removal thereof as determined by the Borough Manager.

11. All assessments, charges or other payments due under this Part shall be borne and paid by the owner of the premises from which the garbage or refuse is collected or upon which said refuse is accumulated and disposed of, or the entity producing the refuse, or the entity responsible for the existence or disposal thereof. If the entity from which the garbage or refuse is collected is not the owner, then the owner shall be jointly and severally liable with such entity for the payment of the assessment fee to the Borough.

12. The collection, disposal and transportation of garbage and refuse in the Borough of Emmaus shall be under the supervision of the Borough Manager. The Borough Manager shall have authority to make regulations concerning the days of collection, type and location of waste containers, and to change and modify the same after notice as required by law.

13. The Borough Council is authorized to make regulations concerning the hauling of refuse and garbage collected inside or outside the Borough of Emmaus over the streets of the Borough. No refuse or garbage shall be hauled over the streets of the Borough except in water-tight vehicles with a tight cover so as to prevent offensive odors from escaping therefrom and refuse being blown, dropped or spilled therefrom. No garbage or refuse shall be dumped or disposed of within Borough limits.

14. Ownership of garbage and refuse set out for collection shall be vested in the Borough of Emmaus.

15. Garbage and refuse must originate at the property where it is set out for collection.

(Ord. 964, 4/9/2003, §102; as amended by Ord. 1057, 9/21/2009, §102)

§103. Prohibited Acts.

1. It shall be unlawful for any person to collect, convey over any of the streets of the Borough of Emmaus or dispose of any refuse or garbage accumulated in the Borough in any manner not approved by this Part or its subsequent regulations.

2. It shall be unlawful for any person to place any garbage or refuse in any street or other public place or upon private property, whether owned by such person or not, within the Borough of Emmaus, except in proper receptacles for collection. No person shall throw or deposit any refuse or garbage in any stream or any other body of water.

3. It shall be unlawful for any person to allow the accumulation of refuse or garbage on any premises in the Borough of Emmaus other than for the purpose of collection in the manner provided by this Part or by regulation of the Borough Council. Any unauthorized or unreasonable accumulation of refuse or garbage on any premises is hereby declared to be a nuisance and prohibited. Failure to remove unauthorized or unreasonable accumulation of refuse within fifteen (15) days of written notice to either the occupant or owner shall be deemed to be a violation of this Part.

4. It shall be unlawful to place in any containers provided for the regular collection of garbage and refuse any wearing material, bedding or refuse from premises where highly infectious or contagious diseases have prevailed or where there is highly flammable or explosive refuse or garbage.

5. It shall be unlawful to place yard waste for collection, except as provided for by the Borough.

6. It shall be unlawful for any person other than the occupants of the premises on which the refuse or garbage receptacles are stored, or the contractor, to remove the covers of any of the refuse or garbage receptacles or to remove the refuse or garbage stored in such containers.

7. Except as otherwise provided in this Part regarding the placement of containers for collection, no trash container, refuse or garbage container or recycling container shall be placed or stored at any property so as to be visible from the front of the property.

8. Refuse may not be set out for collection more than twelve (12) hours prior to the time of collection. Empty containers must be removed from the curbside collection location within twelve (12) hours of collection. [Ord. 1057]

(Ord. 964, 4/9/2003, §103; as amended by Ord. 1057, 9/21/2009, §103)

§104. Fees, Penalties, Discounts and Delinquencies.

1. The assessment fees or charges for the collection and disposal of garbage and refuse shall be established by the Emmaus Borough Council on an annual basis by the passage of a resolution for refuse and garbage collection assessment fees or charges.

2. Each entity from which the Borough of Emmaus will collect garbage and refuse shall receive an annual assessment fee or charge prepared by the Office of the Borough Manager and/or his or her designee and sent to each such entity in January of each year, or as soon thereafter as practical.

A. The due date for the payment of that assessment fee or charge by each entity shall be ninety (90) days from billing date.

B. Should the assessment fee or charge be paid within sixty (60) days of the billing date, each entity shall receive a ten dollar (\$10.00) discount deducted from the assessment.

C. Any payment received after thirty (30) days past the due date, as hereinabove stated, shall be subject to a ten percent (10%) additional assessment fee or charge.

D. In addition to the ten percent (10%) penalty, any assessment fee or charge paid more than sixty (60) days after the due date shall be subject to an additional one percent (1%) fee for each thirty (30) days the assessment fee or charge is delinquent.

3. Any person or any entity which fails to pay the annual assessment fee or charge as set forth above or who in any way violates any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) and/or imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Part continues shall constitute a separate offense and shall be subject to the penalty imposed by this Section for each and every such separate offense.

4. Any violation of § 102(15) concerning the hauling of waste over the streets of the Borough shall be subject to a fine of not more than one thousand dollars (\$1,000.00) and/or imprisonment for a term not to exceed thirty (30) days.

5. The Borough's Code Enforcement Officer, Police Department, Health Officer or such other person or persons designated by the Borough Council shall be authorized to enforce the provisions of this Part.

(Ord. 964, 4/9/2003, §104)

Part 2

Collection and Disposal

§201. Title. This Part shall be known as the Borough of Emmaus Municipal Solid Waste Ordinance. (Ord. 964, 4/9/2003, §201)

§202. Definitions. The following words and phrases when used in this Part shall have, unless the context clearly indicates otherwise, the meaning given to them in this Section:

APPLICANT - A person desirous of being authorized as a "Collector."

BOROUGH - The Borough of Emmaus, Lehigh County, Pennsylvania.

COLLECTOR - A person authorized to collect, transport and dispose of municipal waste from the Borough of Emmaus.

COMMERCIAL ESTABLISHMENT - Any establishment engaged in nonmanufacturing or non-processing business, including, but not limited to, stores, markets, offices, restaurants, theaters, and any other business activity, including home offices and home occupations, and any other home-based business activity. [Ord. 1057]

DISPOSAL - The incinerating, depositing, injection, dumping, spilling, leaking or placing of municipal waste into or on the land or water in a manner that the waste or a constituent of the waste enters the environment, is emitted into the air, or is discharged to the waters of the Commonwealth of Pennsylvania.

DISPOSAL SITE - Any site, facility, location, area or premises to be used for the disposal of municipal waste.

GARBAGE - All animal and vegetable wastes attending or resulting from the handling, selling, storing, preparing, cooking and consumption of foods.

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

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

MANAGEMENT - The entire process, or any part thereof, of storing, collecting, transporting, processing, treating, and disposing of municipal waste by any person engaging in such process.

MUNICIPAL WASTE - Any garbage, refuse, industrial lunchroom or office waste and other material including solid, liquid, semi-solid 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 from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant, or air pollution control facility. "Municipal waste" shall also include all recyclables, as defined in this Chapter. [Ord. 1057]

PERSON - Any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal government

or agency, State government or agency, or any other legal entity that is recognized by law as being subject to the rights and duties of a person.

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 facilities, composting facilities, incinerators, recycling facilities, and resource recovery facilities.

REGULAR - At least three (3) or more times per month.

REFUSE - The collective term applying to all garbage, rubbish, ashes, leaves and grass trimmings from residential, municipal, commercial or institutional premises.

SOLID WASTE - Any waste including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semi-solid or contained gaseous materials. (Pennsylvania Solid Waste Management Act 97, §103). Recyclable materials are not deemed to be waste.

STORAGE - The containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste, and it shall be presumed that the containment of any municipal waste in excess of one year constitutes disposal.

TRANSPORTATION - The off-site removal of any municipal waste generated or present at any time from the Borough of Emmaus.

(Ord. 964, 4/9/2003, §202; as amended by Ord. 1057, 9/21/2009, §202)

§203. Storage of Municipal Waste.

1. General. It shall be the duty of every owner of property and every person occupying any dwelling unit, premises or place of business within the Borough of Emmaus where municipal waste is produced and is accumulated, by his own expense and cost, to provide and keep at all times a sufficient number of containers to hold all municipal waste which may accumulate during the intervals between collection of such municipal waste by an authorized collector.

2. Storage on Residential Properties.

A. Containers. All municipal waste accumulated by owner or occupant of each residential property or the occupant of residential properties shall be placed in containers for collection by an authorized collector. The containers shall be durable, water-tight, and made of metal or plastic. Securely tied plastic bags may be used in cases where such bags can be used without being torn open by domestic or wild animals. The size of each such container shall not exceed a 30-gallon capacity. However, large containers designed for use with special hoisting equipment may be used if the collector serving the residence uses collection vehicles with such special hoisting equipment.

B. Location of Containers. Each municipal waste container shall be located so as to be accessible to the collector at ground level and at a point on the curblineline of the street, or within no less than ten (10) feet of the public street or alley right-of-way from which collection from a vehicle can be made. Failure to place containers at such locations may result in discontinuance of service.

3. Storage on Commercial, Institutional and Industrial Properties.

A. Containers. Storage of municipal waste on commercial, institutional and industrial properties shall be done in the same type of containers as are required for residential properties except that containers larger than thirty (30) gallons may be used, where needed, to accommodate larger volumes of municipal wastes. Such containers shall be kept in good working order.

B. Location of Containers. Containers for collection at commercial, institutional and industrial properties shall be located on such premises at a place which shall not interfere with public or private sidewalks, driveways, roads, streets, highways or entrances and exits of public or private buildings.

(Ord. 964, 4/9/2003, §203)

§204. [Reserved].

§205. Transportation of Solid Waste.

1. Prevention of Spillage. Any person transporting solid waste within the Borough of Emmaus shall prevent or remedy any spillage from vehicles or containers used in the transport of such solid waste.

(Ord. 964, 4/9/2003, §205)

§206. Disposal of Municipal Waste.

1. Designated Facilities. All municipal waste produced, collected and transported from within the jurisdictional limits of the Borough of Emmaus shall be, to the extent permitted by law, disposed of at disposal facilities designated by the Borough of Emmaus and in accordance with any currently effective solid waste management plan of the Borough of Emmaus. In the absence of such designated facilities and/or such currently effective solid waste management plan, municipal waste from the Borough of Emmaus must be disposed of at a State-permitted facility.

2. Notice to Collectors. If the Borough of Emmaus designates the disposal facilities as provided for above, all authorized collectors and other interested persons shall be informed of the location and other information pertaining to the designated disposal facilities to be used for the disposal of municipal waste collected, transported, removed and disposed.

(Ord. 964, 4/9/2003, §206)

§207. Exclusions.

1. Individuals Not Engaged in Collection. Nothing contained herein shall be deemed to prohibit any residential property occupant not regularly engaged in the business of collecting municipal waste from hauling his own municipal waste on an irregular and unscheduled basis, to a State-permitted disposal facility.

2. Hazardous and Residual Waste. The provisions of this Part do not apply to anything but the storage, collection, transportation and disposal of municipal waste and do not apply, therefore, to hazardous or residual waste as defined by the Pennsylvania Solid Waste Management Act.

(Ord. 964, 4/9/2003, §207)

§208. Penalties and Remedies.

1. Penalty. Any person violating any of the provisions of this Part shall, upon conviction by a District Justice, be subject to a fine of up to but not more than one thousand dollars (\$1,000.00) together with the costs of prosecution, and in default of the payment of such fine and costs, to undergo

imprisonment for not more than ninety (90) days. Every violator of the provisions of this Part shall be deemed guilty of a separate offense for each and every day such violation shall continue and shall be subject to the penalty imposed by this Section for each and every such separate offense.

2. Additional Remedies. In addition to the foregoing penalty the Borough of Emmaus may require the owner or occupant of a property to remove any accumulation of solid waste and should said person fail to remove such solid waste after ten (10) days following written notice, the Borough of Emmaus may cause the solid waste to be collected and disposed of with the costs for such actions to be charged to the owner or occupant of the property in a manner provided by law.

3. Abatement. The imposition of the penalties herein prescribed shall not preclude the Borough of Emmaus from instituting appropriate actions or proceedings to prevent the violation of this Part, to restrain, correct or abate any such violation, or to prevent any act, conduct, business or activity constituting a violation.

(Ord. 964, 4/9/2003, §208)

Part 3
Recycling Program

§301. Short Title. This Part shall be known and may be cited as the "Borough of Emmaus Waste Reduction and Recycling Ordinance." (Ord. 720, 12/4/1989, §1)

§302. Authority. This Part is enacted pursuant to the Solid Waste Management Act, P.L. 380, No. 97, July 7, 1980 and the Municipal Waste Planning Recycling and Waste Reduction Act, No. 101, July 28, 1988. (Ord. 720, 12/4/1989, §2)

§303. Purpose and Goals. It is the purpose of this Part to:

1. Require waste reduction and recycling as a means of managing municipal waste, conserving resources and supplying energy.
2. Protect the public health, safety and welfare from the short and long term dangers of collection, transportation, processing and storage of municipal waste.
3. Establish and implement within the Borough of Emmaus a recycling program to return valuable materials to productive use, to conserve energy and to protect capacity at municipal waste processing or disposal facilities.
4. Each person living or working in the Borough of Emmaus shall be taught the economic, environmental and energy value of recycling and waste reduction, and shall be encouraged through a variety of means to participate in such activities.
5. The Borough of Emmaus shall, to the greatest extent practicable, procure and use products and materials with recycled content, and procure and use materials that are recyclable.

(Ord. 720, 12/4/1989, §3; as amended by Ord. 1057, 9/21/2009, §303)

§304. Definitions. The following words and phrases when used in this Part shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

ABATEMENT - The restoration, reclamation, recovery, etc., of a natural resource adversely affected by the activity of a person.

AVERAGE DAILY VOLUME - The mean daily volume received at a facility taking into account weather and seasonal variations, scheduled community cleanup days and other factors.

COMMONWEALTH AGENCY - The Commonwealth and its departments, boards, commissions and agencies, Commonwealth owned universities, and the State Public School Building Authority, the State Highway and Bridge Authority and any other authority now in existence or hereafter created or organized by the Commonwealth.

DEGRADABLE PLASTIC BEVERAGE CARRIER - Plastic beverage carriers that degrade by biological processes, photodegradation, chemodegradation or degradation by other natural processes. The degradation process does not produce or result in a residue or by-product considered to be hazardous waste.

DEPARTMENT - The Department of Environmental Resources of the Commonwealth and its authorized representatives.

DISPOSAL - The deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged into the waters of this Commonwealth.

FEASIBILITY STUDY - A study which analyzes a specific municipal waste processing or disposal system to assess the likelihood that the system can be successfully implemented, including, but not limited to, an analysis of the prospective market, the projected costs and revenues of the system, the municipal waste-stream that the system will rely upon and various options available to implement the system.

HOST MUNICIPALITY - The municipality other than the county within which a municipal waste landfill or resource recovery facility is located or is proposed to be located.

LEAF WASTE - Leaves, garden residues, shrubbery and tree trimmings and similar material, but not including grass clippings.

LOCAL PUBLIC AGENCY -

A. Counties, cities, boroughs, towns, townships, school districts and any other authority now in existence or hereafter created or organized by the Commonwealth.

B. All municipal or school or other authorities now in existence or hereafter created or organized by any county, city, borough, township or school district or any combination thereof.

C. Any and all other public bodies, authorities, councils of government, officers, agencies or instrumentalities of the foregoing, whether exercising a governmental or proprietary function.

MANAGEMENT - The entire process, or any part thereof, of storage, collection, transportation, processing, treatment and disposal of solid wastes by any person engaging in such process.

MUNICIPAL RECYCLING PROGRAM - A source separation and collection program for recycling Emmaus's waste or source separated recyclable materials, or a program for designated drop-off points or collection centers for recycling Emmaus's waste or source-separated recyclable materials, that is operated by or on behalf of the Borough of Emmaus. The term includes any source separation and collection program for composting yard waste that is operated by or on behalf of the Borough of Emmaus. The term shall not include any program for recycling construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.

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

MUNICIPAL WASTE LANDFILL - Any facility that is designated, operated or maintained for the disposal of municipal waste, whether or not such facility possesses a permit from the Department under the Solid Waste Management Act. The term does not include any facility that is used exclusively for disposal of construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.

MUNICIPALITY - The Borough of Emmaus, Lehigh County, Pennsylvania.

OPERATOR - A person engaged in solid waste processing or disposal. Where more than one (1) person is so engaged in a single operation, all persons shall be deemed jointly and severally responsible for compliance with the provisions of this Part.

PERSON - Any individual, partnership, corporation, association, institution or cooperative enterprise. In any provision of this Part 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.

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

POLLUTION - Contamination of any air, water, land or other natural resources of the Borough of Emmaus that will create or is likely to create a public nuisance or to render the air, water, land or other natural resources harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other life.

POSTCONSUMER MATERIAL - Any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purposes of collection, recycling and disposition. The term includes industrial byproducts that would otherwise go to disposal or processing facilities. The term does not include internally generated scrap that is commonly returned to industrial or manufacturing processes.

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 offsite reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities and resource recovery facilities.

PROJECT DEVELOPMENT - Those activities required to be conducted prior to constructing a processing or disposal facility that has been shown to be feasible, including, but not limited to, public input and participation, siting, procurement and vendor contract negotiations, and market and municipal waste supply assurance negotiations.

PUBLIC AGENCY - Any Commonwealth agency or local public agency.

RECYCLED CONTENT - Goods, supplies, equipment, materials and printing containing postconsumer materials.

RECYCLING - The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials 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 or reusable materials other than a fuel for the operation of energy.

RECYCLING FACILITY - A facility employing a technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term "recycling facility" shall not mean transfer stations or landfills for solid waste nor composting facilities or resource recovery facilities.

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

RESOURCE RECOVERY FACILITY - A processing facility that provides for the extraction and utilization of materials or energy from municipal waste that is generated off-site, including, but not limited to, a facility that mechanically extracts materials from municipal waste, a combustion facility that converts the organic fraction of municipal waste to usable energy, and any chemical and biological process that converts municipal waste into fuel product. The term also includes any facility for the combustion of municipal waste that is generated off-site whether or not the facility is operated to recovery energy. The term does not include:

1. Any composting facility.
2. Methane gas extraction from a municipal waste landfill.
3. Any separation and collection center, drop-off point or collection center for recycling, or any source separation or collection center for composting leaf waste.
4. Any facility, including all units in the facility, with a total processing capacity of less than fifty (50) tons per day.

SOLID WASTE - Any waste, including but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials. The term does not include coal ash or drill cuttings.

SOLID WASTE MANAGEMENT ACT - The act of July 7, 1980 (P.L. 380, No. 97).

SOURCE-SEPARATED RECYCLABLE MATERIALS - Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

STORAGE - The containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any municipal waste in excess of one (1) year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

TRANSPORTATION - The offsite removal of any municipal waste at any time after generation.

TREATMENT - Any method, technique or process, including, but not limited to, neutralization, designed to change the physical, chemical or biological character or composition of any municipal waste so as to neutralize such waste or so as to render such waste safer for transport, suitable for recovery, suitable for storage or reduced in volume.

WASTE REDUCTION - Design, manufacture or use of a product to minimize weight of municipal waste that requires processing or disposal, including, but not limited to:

1. Design or manufacturing activities which minimize the weight or volume of materials contained in a product, or increase durability or recyclability; and

2. Use of products that contain as little material as possible, are capable of being reused or recycled or have an extended useful life.

(Ord. 720, 12/4/1989, §4)

§305. Powers, Duties, and Responsibilities of the Borough of Emmaus.

1. Responsibilities. The Borough of Emmaus shall have the power and its duty shall be to assure the proper and adequate transportation, collection and storage of municipal waste which is generated or present within its boundaries, to assure adequate capacity for the disposal of municipal waste generated within its boundaries by means of the procedure set forth in §1111 of the Municipal Waste Planning Recycling and Waste Reduction Act and to adopt and implement a program for the collection and recycling of municipal waste or source-separated recyclable materials as provided in this Part.

2. Powers. In carrying out its duties under this Section, the Borough of Emmaus may adopt resolutions establishing procedures, regulations and standards for the recycling, transportation, storage and collection of municipal waste, or source-separated recyclable materials which shall not be less stringent than, and not in violation of or inconsistent with, the provisions and purposes of the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and the regulations promulgated pursuant thereto.

3. Duties. The Borough of Emmaus shall implement the provisions of this Part by collecting, transporting, processing or marketing source-separated materials or may contract, subject to competitive bidding, with any person to carry out its duties for the recycling, transportation, collection and storage of municipal waste and source-separated recyclable materials, if the recycling, transportation, collection or storage activity or facility is conducted or operated in a manner that is consistent with the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act, this Part and the regulations promulgated pursuant thereto. Any such person shall be jointly and severally responsible with the Borough of Emmaus when carrying out its duties for transportation, collection or storage activity or facility.

(Ord. 720, 12/4/1989, §5)

§306. Designated Sites. All municipal waste, including recyclables, shall be disposed of at a facility, and in a manner that complies with all laws, rules, and regulations, of any local governing body, state, or federal government, or any agency or department of the same. (Ord. 720, 12/4/1989, §6; as amended by Ord. 1057, 9/21/2009, §306)

§307. Borough of Emmaus Recycling Program. The Borough of Emmaus hereby establishes and implements a source separation and collection program for recyclable materials in accordance with §1501 of the Municipal Waste Planning, Recycling and Waste Reduction Act. The source separation and collection program shall include the following regulations:

1. All persons, commercial establishments, institutions, governments, and any other entity in the Borough of Emmaus shall separate the following classes of materials into an approved container for the storing of recyclable materials, and shall dispose of them so as to ensure that they are processed and transported to a facility that recycles the materials:

- A. Aluminum food and beverage containers.
- B. Glass food and beverage containers – brown, clear, or green.
- C. Ferrous (Iron) cans.
- D. PET plastic containers with the symbol #1 – with screw tops only, without caps.
- E. HDPE natural plastic containers with the symbol #2 – narrow neck containers only (milk and water bottles).
- F. HDPE pigmented plastic containers with the symbol #2 – narrow neck containers only, without caps (detergent, shampoo bottles, etc.).
- G. Plastics with symbols #3, #4, #5, #6, #7 – narrow and screw top containers.
- H. Newsprint.
- I. Corrugated cardboard.
- J. Magazines.
- K. Catalogues.
- L. Cereal boxes.
- M. Telephone books.

- N. Printer paper.
- O. Copier paper.
- P. Mail.
- Q. All other office paper without wax liners.

Upon placement of recyclable items at the curbside for collection by any party contracted by the Borough to perform refuse collection, transportation, and disposal, such recyclable items shall become the property of the Borough's contractor.

[Ord. 1057]

2. Persons are hereby required to separate leaf waste from other municipal waste generated at their homes, apartments and other residential establishments until collection unless those persons have otherwise provided for the composting of leaf waste.

3. A commercial establishment, owner of a multi-family dwelling, municipal building or office, or an institutional establishment, shall establish a collection system for recyclable materials at each building or occupied structure on the premises. The collection system must include suitable locations for the containers, and written instructions to the occupants of each dwelling unit or commercial unit concerning the mandatory use of the collection system. The collection system shall provide that recyclables will be removed from the premises at least once every four (4) weeks. Owners and landlords are required to monitor compliance by all occupants on their premises, and shall be responsible to correct any noncompliance and institute such procedures as are reasonable and necessary to minimize the likelihood or possibility of noncompliance with this Part. Any entity obtaining services of an independent hauler shall pay an administrative fee, as set annually by the Borough Council, as referenced in §104 of Part 1 of this Chapter. [Ord. 1057]

(Ord. 720, 12/4/1989, §7; as amended by Ord. 1057, 9/21/2009, §307)

§308. [Reserved].

§309. [Reserved].

§310. Annual Report. On or before February 15 of each year, the Borough Manager shall submit a report to Lehigh County which shall describe the weight or volume of materials that were recycled by the municipal recycling program in the preceding calendar year. (Ord. 720, 12/4/1989, §10)

§311. Criminal Penalties. Any person, other than a municipal official exercising his official duties, who violates any provision of this Part, any resolution enacted hereunder, any order issued hereunder, or the terms or conditions of any contract awarded in the implementation of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than one hundred (\$100.00) dollars and not more than one thousand (\$1,000.00) dollars and costs and, in default of the payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days. (Ord. 720, 12/4/1989, §11)

