

Forest City

ORDINANCE NUMBER 473 OF 2008

AN ORDINANCE OF THE BOROUGH OF FOREST CITY ESTABLISHING A PROGRAM FOR THE COLLECTION OF RECYCLABLE MATERIALS FROM THE RESIDENCES AND COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL ESTABLISHMENTS IN THE BOROUGH FOR RECYCLING PURPOSES; TO PROHIBIT THE DISPOSAL OF RECYCLABLE MATERIALS INTO THE CONVENTIONAL MUNICIPAL SOLID WASTE DISPOSAL SYSTEM; TO EMPOWER THE MUNICIPALITY TO ADOPT AND PROMULGATE REASONABLE REGULATIONS THEREFORE; AND TO FIX PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Forest City, Susquehanna County, Commonwealth of Pennsylvania, as follows:

Section 1. Legislative History

This Ordinance is adopted pursuant to Article I, Section 27, of the Constitution of the Pennsylvania, and Act of Assembly, July 28, 1988, No. 101, 53 P.S. 4000.101 et. seq. for the following purposes:

WHEREAS, Section 27 of Article I of the Constitution of the Commonwealth of Pennsylvania provides that the people have the right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people; and

WHEREAS, the Act of July 28, 1988, No. 010, known as the Municipal Waste Planning, Recycling and Waste Reduction Act, provides that each municipality of the Commonwealth shall have the power and duty to adopt and implement programs for the collection and recycling of municipal waste or source separated recyclable materials; and

WHEREAS, conservation of recyclable materials has become an important public concern because of the growing problem of solid waste disposal and its impact on our environment; and

WHEREAS, the remaining permitted solid waste landfills are reaching their capacity; and

WHEREAS, there is an increasing necessity to conserve our natural resources; and

WHEREAS, the collection of recyclable materials from residences and commercial, industrial, and institutional establishments promotes the general public interest; and

WHEREAS, the adoption and implementation of recycling will effect the conservation of natural resources, the protection of the right of the people to clean air, pure water and preservation of the environment;

Section 2. Title

This Ordinance shall be known as the Borough of Forest City "Recycling Ordinance" and the same may be cited in that manner.

Section 3. Purpose

The Borough of Forest City recognizing the reclamation of recyclable materials has become an important method for addressing the growing solid waste disposal problem through conservation of landfill space, preservation of natural resources, and a reduction in energy consumption, does hereby authorize the storage, collection and transportation of recyclable materials in accordance with the provisions of the Municipal Waste Planning, Recycling and Waste Reduction Act (No. 101), the Lackawanna County Solid Waste Management Plan and this Ordinance. This Ordinance is intended to be an integral part of an overall system designed to facilitate recycling and foster the cooperation of the residents.

ARTICLE II DEFINITIONS

The following words and phases when used in this ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this Article:

Aluminum Cans: Empty all-aluminum beverage and food containers.

Authority: Lackawanna County Solid Waste Authority

Bimetal Containers: Empty beverage or food containers consisting of steel and aluminum.

Commercial: Any establishment engaged in a non-manufacturing or non-processing business including but not limited to, stores, markets, office buildings, restaurants, shopping centers, and theaters. For the purpose of this agreement, multi-family dwellings, town homes, mobile home parks, hotels, motels, and mixed use properties (combined business/residential on a single parcel) shall be considered commercial establishments. Does not include properties where primary permitted use is residential and accessory use is commercial. (i.e. home occupations).

Corrugated Paper: Structural paper material with an inner core shaped in rigid and parallel furrows and ridges.

Curbside Recycling Collection: The schedule collection and transportation of recyclable materials placed at the curb line or other designated area.

Customer: The owner or renter of any residential, commercial, industrial, or institutional property located within the Borough.

Designated Agent: An agent such as another municipality acting on behalf of the Borough whose powers and responsibilities are established in an intergovernmental agreement or similar document. Also anyone designated as an agent by the owner of any residential, industrial or institutional property to care or maintain said property on behalf of the owner.

Drop-Off Sites: Those specified locations, staffed or un-staffed, where recyclable materials may be taken at specified times.

Dwelling Unit: One or more rooms on premises which have cooking facilities and are arranged for occupancy by one (1) person, two (2) or more persons living together or one family. Each dwelling unit within a non-commercial building shall be considered an individual customer.

Enforcement Officer: The official designated therein or otherwise charged with responsibilities of administering this ordinance, or the official authorized representative.

Glass Containers: Bottles and jars made of clear, green or amber glass. Expressly excluded are non-container glass, automobile glass, plate glass, blue glass, lead crystal and ceramic products.

High Density Polyethylene (HDPE) Containers: Plastic bottles and jars made exclusively from non-colored high density polyethylene such as milk and water jugs.

High Grade Office Paper: All white paper, bond paper, and computer paper used in commercial, industrial, institutional and municipal establishments.

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

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

Lead Acid Batteries: Shall include but not be limited to, automotive, truck and industrial batteries that contain lead.

Leaf Waste: Leaves from trees, bushes, and other plants, garden residue, chipped shrubbery and tree trimmings, but not including grass clippings.

Licensed Hauler: A person who have obtained a license from the Commonwealth of Pennsylvania or its designated agent authorizing said person to collect, transport, and/or dispose of municipal solid waste, recyclable materials and bulk waste from residential, commercial, industrial or institutional establishments. The term may be applied to a person having the exclusive right to collect within the Borough.

Municipal Solid Waste: Any garbage, refuse, industrial lunchroom, or office waste and any other material including solid waste, liquid, semi-solid or contained gaseous materials resulting from the operation of residential, municipal, commercial, industrial or institutional establishments and from community activities, and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial, industrial or institutional water supply treatment plan, waste water treatment plant or air pollution control facilities. (Pennsylvania Act 101, Section 103)

Newspapers: All 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 are newspapers which are wet, yellowed or soiled.

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

Polyethylene Terephthalate (PET) Containers: Plastic soda bottles composed of polymer PET.

Recyclable Materials: Shall mean source separated recyclable materials, including materials listed in Section 1501 of Act 101 and materials identified by the municipalities to be recycled.

Residential: (see dwelling unit)

Steel Cans: Empty all steel food and beverage containers.

Borough: The governmental jurisdiction and legal entity of the Borough of Forest City, Susquehanna County, Pennsylvania.

ARTICLE II GENERAL

Those recyclable materials separated under the provisions of this Ordinance shall not be considered municipal waste.

ARTICLE III ESTABLISHMENT OF PROGRAM

The Borough hereby establishes a program for the mandatory separation of recyclables from municipal waste by residential dwelling and commercial, industrial and institutional establishments.

ARTICLE IV RECYCLING BY EMPLOYEES OR DESIGNATED AGENTS

All recyclable material generated within the Borough shall be collected by employees or designated agents of the Borough.

ARTICLE V ESTABLISHMENT OF REGULATIONS

The Borough or its designated agent shall establish and promulgate regulations on the manner, days and time of collection of recyclable materials and for bundling, handling, location and time of placement of such materials for collection. Regulations shall be promulgated for the programs undertaken for residential dwelling units and commercial, industrial and institutional establishments.

ARTICLE VI SPECIAL ITEMS

Section I. Lead Acid Batteries

No person shall place a used lead acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to secondary lead smelter permitted by Department of Environmental Protection or to a collection or recycling facility authorized under the laws of the Commonwealth of Pennsylvania.

Section II. Leaf Collection

All residential customers and commercial, industrial or institutional establishments who gather leaves shall separate all leaf waste from municipal solid waste and place it for collection at the times and in the manner theretofore or hereafter prescribed by the Borough. Nothing herein shall require any person to gather leaf waste or to prevent any person from utilizing leaf waste for compost, mulch or other agriculture, horticulture, gardening or landscape purposes.

ARTICLE VII COLLECTION BY UNAUTHORIZED PERSONS

It is understood that any recyclable materials located at the curb line are the property of the Borough. It is further understood that any recyclable materials deposited at drop-off sites or in storage bins associated with residential dwelling or commercial, municipal, industrial and institutional establishments are the property of the owner. Recyclable materials deposited in containers owned by the Borough or its agents are the property of the Borough and/or its agents.

It shall be a violation of the Ordinance for any person(s) to collect or remove or cause to be collected or removed any such recyclable materials specified by the Borough rules and regulations unless authorized by the Borough or its designated agent. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as outlined in Article X.

**ARTICLE VIII
ENFORCEMENT AND ADMINISTRATION**

The Borough Council shall appoint an enforcement officer or officers to enforce and administer the provisions of this Ordinance.

**ARTICLE IX
ALTERNATIVE DISPOSITION OF RECYCLABLE MATERIALS**

Any person may donate or sell recyclable materials to individuals or organizations. Otherwise, such materials are to be placed at curbside, in drop-off facilities or storage bins or similar authorized locations for collection by the Borough or its designated agent as applicable. Drop-off facilities may be sited for use by residents of the Borough Of Forest City outside of the Borough not serviced by a curb-side route.

**ARTICLE X
PENALTIES**

Section 1. Non-Participation

Upon the discovery of any violation under the terms of this Ordinance, the Borough may through its designated agent give notice to the owner or occupant of a violation hereunder either by personal delivery to such owner or occupant, by United States mail directed to the last known address of such person or persons, as shown in the real estate registry records or the Borough, or by leaving the same on the premises where such violation occurs.

Such person shall within seven (7) days after the delivery, mailing or leaving of such notice make settlement to the Treasurer of the Borough the sum of ten (10) dollars for the violation. The failure of such person to make settlement as aforesaid, within seven (7) days, the Borough may institute any action for violation pursuant to Article XI Section 2.

Nothing contained in this Article shall affect in any way the provisions of this Ordinance regarding separate offenses for every day a violation occurs.

Section 2. Fines for Non-Participation or Non-Payment

On neglect or refusal of the occupant of any dwelling service by curbside recycling collection; residential dwelling unit or commercial, industrial or institutional establishment to separate recyclable materials from municipal solid waste and place them at curbside or sites established by the Borough of its designated agent to make settlement in Article X, Section 1. That person shall upon conviction before a Magisterial District Judge of such violation be sentenced to pay a fine of not less than \$100.00 together with the costs of prosecution be collected as now provided by law. Each violation shall constitute a separate offense.

Section 3. Unauthorized Collection

If any person, firm, corporation or other entity unauthorized by the Borough or its designated agent collects or removes or causes to be collected or removed any such recyclable materials as specified in the Borough of Forest City's regulations or in violation of the provisions of this Ordinance, such person, firm, corporation or other entity shall upon conviction by Magisterial District Judge in summary proceedings be subject to a fine of not more than three-hundred (300) dollars together with the costs of prosecution. Upon judgment against any such Defendant by summary conviction, on default of payment of the fine or penalty or costs, such Defendant may be sentenced and committed to the County Jail for a period not exceeding thirty (30) days. Each day of violation shall constitute separate and distinct offense and shall be subject to a separate summary proceeding before a District Judge and subject to a penalty imposed by this Article for each and every day such violation shall continue.

Section 4. Pilfering of Collection Containers

If any person is responsible for pilfering of collection containers issued to a residence slated for either curbside collection or any other phase of the Vandling Recycling Program, such person shall upon conviction by Magisterial District Judge in a summary proceeding be subject to a fine of not more than three-hundred (300) dollars, together with costs of prosecution. Upon judgment against any such Defendant by summary conviction, on default of payment of the payment of the fine or penalty imposed and the costs, such Defendant may be sentenced and committed to the County Jail for a period not exceeding thirty days (30). Each day of a violation shall constitute a separate and distinct offense and shall be subject to separate summary proceedings before a Magisterial District Judge and subject to a penalty imposed by this Article for each and every day such violation shall continue. The affected resident will be responsible for replacing any missing container through purchase from the Borough or its designated agent.

ARTICLE XII SEVERABILITY

Should any article, section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason the remainder of this Ordinance shall not be affected thereby.

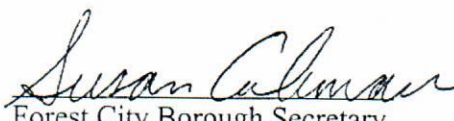
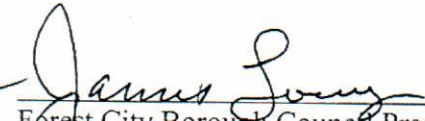
ARTICLE XIII APPLICABILITY

This Ordinance shall be subject to all applicable federal, state and municipal laws and ordinances as well as rules and regulations as set forth by the Department of Environmental Protection, Commonwealth of Pennsylvania.

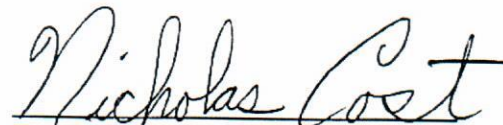
**ARTICLE XIV
EFFECTIVE DATE**

This Ordinance shall take effect on the date of enactment.

ORDAINED AND ENACTED this 5th day of May, 2008.

 _____ Forest City Borough Secretary	 _____ Forest City Borough Council President
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The foregoing Ordinance is approved on the 5th day of May, 2008.



Forest City Borough Mayor