

BOROUGH OF EPHRATA
Lancaster County, Pennsylvania

ORDINANCE NO. 1583

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 271, SOLID WASTE, OF THE
CODE OF THE BOROUGH OF EPHRATA, LANCASTER COUNTY, PENNSYLVANIA**

WHEREAS, the “Municipal Waste Planning, Recycling and Waste Reduction Act”, the Act of July 28, 1988, P.L. 556, as amended, 53 P.S. § 4000.101 *et seq.*, provides that the Borough of Ephrata, Lancaster County, Pennsylvania (the “Borough”) shall have the duty and power to adopt and implement programs for the collection and recycling of municipal solid waste and recyclables; and

WHEREAS, the Borough Council of the Borough of Ephrata deems it to be in the best interest and general welfare of the citizens and residents of the Borough to amend certain provisions of Chapter 271 of the Code of the Borough of Ephrata, as set forth herein in more detail.

BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Council of the Borough of Ephrata, Lancaster County, Pennsylvania as follows:

SECTION 1. Recitals. The above recitals are incorporated herein.

SECTION 2. Adopted Ordinance. In accordance with the Borough Code, 8 Pa.C.S. § 101, *et seq.*, as amended, the Borough Council of the Borough of Ephrata hereby repeals the existing Chapter 271 entitled “Solid Waste” in its entirety, and adopts in its place the text attached hereto and incorporated herein by reference as Exhibit “A”.

SECTION 3. Repealer. All prior ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent they are inconsistent with this Ordinance. Except as expressly amended, nothing herein shall be deemed to affect or alter any other provision of the Ephrata Borough Code.

SECTION 4. Savings Clause. In all other respects, the Borough Ordinances shall remain as previously enacted and ordained.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be illegal or invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion or provision shall be severable and shall not affect or impair any remaining portion of this Ordinance and Chapter, which shall remain in full force and effect.

SECTION 6. Effective Date. This Ordinance shall be effective immediately.

DULY ENACTED AND ORDAINED this 5th day of June, 2024 by the Council of the Borough of Ephrata, Lancaster County, Pennsylvania, in lawful session duly assembled.

BOROUGH OF EPHRATA
Lancaster County, Pennsylvania

By: Thomas G. Reinhold
Thomas G. Reinhold, President

Attest: Nancy E. Harris
Nancy E. Harris, PE, Secretary



Approved by me this 5th day of June 2024.

By: Ralph E. Mowen
Ralph E. Mowen, Mayor

EXHIBIT "A"

Chapter 271
Solid Waste

§ 271-1 Short title.

This chapter shall be known and referred to as the "Municipal Waste Management Ordinance of the Borough of Ephrata."

§ 271-2 Definitions.

Any capitalized term, if not defined in this chapter, shall have the meaning as from time to time set forth in the LCSWMA Rules and Regulations which are incorporated into this chapter by reference. In addition, as used in this chapter, the following terms shall have the following meanings:

ACT 97

The Solid Waste Management Act, Act of July 7, 1980, P.S. 380, No. 97, as now or hereafter amended, 35 P.S. § 6018.101 et seq.

ACT 101

The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101, as now or hereafter amended, 53 P.S. § 4000.101 et seq.

ALUMINUM

All food and beverage cans made of the light-in-weight, ductile and malleable metallic substance or element commonly known as "aluminum." This description excludes aluminum foil, trays, plates, and miscellaneous aluminum products.

BATTERY BAGS

Bags which LCSWMA makes available to Generators of Municipal Waste and which shall be used as disposal containers for batteries which are generated in households.

BOROUGH

Borough of Ephrata.

CLEAR GLASS

Clear glass consists only of clear food and beverage containers made of glass, of one gallon or less capacity, and comprised of the hard, brittle and transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda and lime and/or other chemicals and substances usually included in the manufacture of glass.

COLORED GLASS

Colored glass consists only of green or brown food and beverage containers made of glass, of one gallon or less capacity, and comprised of the hard, brittle and transparent or partially transparent substance produced by fusion of silica and silicates or sand containing soda and lime and/or other chemicals and substances usually included in the manufacture of glass.

COMMENCEMENT DATE

October 1, 1990, the date upon which the Borough's mandatory recycling program and Municipal Contract collection services began.

COMMINGLED

Designated recyclable materials which have been segregated from regulated municipal waste, but have not been separated into different types of recyclable materials and which have been placed in a recycling container for the purpose of collection.

COMMUNITY ACTIVITIES

Events that are sponsored by public or private agencies or individuals, including but not limited to, fairs, bazaars, socials, picnics and organized sporting events attended by 200 or more individuals per day.

COMPOSTING

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

CONTRACTOR

The person(s) providing municipal contract waste and designated recyclable materials collection services under the Borough Contract(s).

CONSTRUCTION/DEMOLITION WASTE

A portion of municipal waste resulting from the construction or demolition of buildings and other structures, including wood, plaster, drywall and wallboard, metals, asphaltic substances, bricks, block, and unsegregated concrete. The term also includes street sweepings and non-friable asbestos waste. The term does not include the following if they are separated from other waste and used as clean fill:

- A. Uncontaminated soil, rock, stone, gravel, brick, block, concrete, and used asphalt.
- B. Waste from land clearing, grubbing and excavation including trees, brush, stumps and vegetative material.

CORRUGATED CARDBOARD

Unbleached, unwaxed kraft paper that is formed into layers with a fluted medium and manufactured into shipping boxes and related products.

COUNTY

The County of Lancaster, Pennsylvania.

CURBSIDE

The correct location for the placement of refuse containers and recycling containers for the purpose of collection by the contractor(s) under the Borough contract(s), and by permitted collectors at multifamily units and nonresidential units, which shall be adjacent to the Residential Unit and no more than five feet from the public street used by collection vehicles.

CUSTOMER

A person with an agreement for on-site collection of solid waste generated by such person or within a residential unit, multifamily unit or nonresidential unit occupied by such person.

DESIGNATED RECYCLABLE MATERIALS

Those source-separated recyclable materials designated in § 271-7 of this chapter.

ELIGIBLE COMMERCIAL ESTABLISHMENT

Any person, other than a residential unit, who generates municipal waste and requests and receives approval by the Borough to use the collection services provided under this contract.

EXISTING CONTRACT

Any contract for the storage, collection, transportation, processing or disposal of regulated municipal waste or designated recyclable materials generated or located within the Borough which was legally entered into prior to the effective date of this chapter and when entered into was legally enforceable.

EXTRA REFUSE CONTAINERS

Refuse containers which are in excess of the number of refuse containers per collection site limit in the Borough Contract.

EXTRA SERVICE TAG

A label which shall be affixed to tires, white goods, oversized refuse items, yard waste and extra refuse containers in order for such items to be collected by the contractor.

FACILITY

Any specific site designated by LCSWMA (or approved by LCSWMA) as the specific place or site to which solid waste or source-separated recyclable materials, or any portion of solid waste or source-separated recyclable materials, must or may be delivered; or in the absence of a specific site being designated by LCSWMA, any approved site for the delivery of any category of solid waste or source-separated recyclable materials.

FARM

A tract of land containing 10 or more acres which is used for agricultural purposes, which agricultural activities provide the major and primary source of income to the residents of the tract.

GARBAGE

Kitchen or household refuse.

GENERATOR

A person who produces or creates any solid waste.

HAZARDOUS WASTE

- A. Garbage, refuse, 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; or
 - (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 Control Act (52 U.S.C.A. §§ 30.51-30.62); treatment sludges 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. § 691.1691.1001); solid or dissolved material in domestic sewage; solid dissolved materials in irrigation return flows; industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act (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

Desktop-generated paper limited to white ledger, copy paper, and computer printout (CPO).

HOUSEHOLD HAZARDOUS WASTE

A portion of municipal waste that would be considered hazardous under Act 97 but for the fact that it is produced in quantities smaller than those regulated as hazardous waste under Act 97 and is generated by persons not otherwise covered as hazardous waste generators by Act 97. Household hazardous waste includes the following materials and other materials of a similar nature:

- A. Antifreeze;
- B. Batteries;
- C. Chlorinated hydrocarbons;
- D. Fluorescent light bulbs and other mercury-containing devices;
- E. Gasoline and kerosene;
- F. Grease and rust solvents;

- G. Oven, toilet and drain cleaners;
- H. Paints, rust preventatives, stain and wood preservatives;
- I. Pesticides, fungicides, herbicides, insecticides, rodenticides, roach and ant killers;
- J. Photographic and pool chemicals;
- K. Thinners, solvents and furniture strippers;
- L. Transmission and brake fluids;
- M. Used oil or other hydrocarbon-based lubricants; and
- N. Wood, metal, rug and upholstery cleaners and polishes.

INDUSTRIAL LUNCHROOM

Nonmanufacturing waste coming from the lunchroom, bathroom or office.

LCSWMA

The Lancaster County Solid Waste Management Authority, a municipal authority organized and existing under the Municipality Authorities Act, as amended.

LCSWMA FACILITY

Any facility owned or operated by or on behalf of LCSWMA.

MANIFEST

A form supplied by LCSWMA to be completed and signed by each person who collects or transports solid waste or source-separated recyclable materials and which specifies, inter alia, the source, type, quantity and delivery point for the solid waste or source-separated recyclable materials, the applicable license number and other pertinent information.

MULTIFAMILY UNIT

A property with five or more residential units including, without limitation, apartment complexes, condominium complexes, retirement homes and mobile home parks, excluding farms.

MUNICIPAL CONTRACT

The agreement between the Borough and a permitted collector under which collection services are to be provided to residential units and eligible commercial establishments for municipal contract waste and/or for designated recyclable materials.

MUNICIPAL CONTRACT WASTE

Those portions of regulated municipal waste which are to be collected and disposed of under this Municipal Contract. Municipal contract waste consists exclusively of refuse and oversized refuse items.

MUNICIPAL CUSTOMER

An owner or occupant of each residential unit for the collection of refuse and designated recyclable materials under the Municipal Contract and eligible commercial establishment electing to receive the collection services for municipal contract waste.

MUNICIPALITY

Ephrata Borough.

MUNICIPALITY'S POLICIES AND PROCEDURES

The rules and regulations adopted and revised from time to time by the Borough which govern and pertain to the Borough's recycling program and the on-site collection or storage of regulated municipal waste within the Borough.

NEWSPRINT

Paper that has been used for the production of daily, weekend and special edition publications commonly known as "newspapers."

NONPROCESSABLE WASTE

Nonprocessable waste is a portion of municipal waste consisting of materials that cannot be handled by LCSWMA's normal processing or disposal methods. Nonprocessable waste includes items greater than six feet in any dimension such as mattresses, large furniture and recreational vehicles. Nonprocessable waste (oversized) may consist of large auto parts, machines, and any other items deemed appropriate by LCSWMA.

NONRESIDENTIAL UNITS

All commercial, municipal and institutional establishments, all community activities, and all farms, excluding residential units and multifamily units.

OVERSIZED REFUSE ITEMS

Refuse which will not fit into refuse containers but which is not nonprocessable waste, including small furniture, carpet, portable televisions and the like, but excluding tires and white goods.

OPEN BURNING

A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.

PERMITTED COLLECTOR

A person who is in possession of all pertinent permits and licenses which may be required by the Commonwealth of Pennsylvania and LCSWMA for the off-site collection, transportation, storage or disposal of solid waste or recyclable materials.

PERSON

Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, Borough, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

PLASTICS

Recyclable plastics are identified on the bottom of the container and consist of two types of containers, namely, #1 PETE (such as soda bottles) and #2 HDPE (such as milk, spring water, and detergent bottles).

PUTRESCIBLE WASTE

A portion of municipal waste consisting of organic waste materials which, due to biological decomposition, are, or have a tendency to be, rotten, foul, or odorous, including dead animals and spoiled foods, but not including sludge.

RECYCLABLE MATERIALS

Any material which would be regulated municipal waste but for source separation and which will be processed into raw materials or products which are beneficially reused.

RECYCLING

The separation, collection, recovery and sale or reuse of metals, glass, paper, yard waste, plastics and other materials which would otherwise be disposed of or processed as solid waste, or the mechanized separation and treatment of solid waste and creation and recovery of reusable materials or energy.

RECYCLING CONTAINER

For residential units, the term "recycling container" shall refer to the container supplied by the Borough. For multifamily units and nonresidential units, the term "recycling container" shall refer to a receptacle that is constructed of plastic, metal or fiberglass and has handles of adequate strength for lifting.

REFUSE

That portion of regulated municipal waste except:

- A. Construction/demolition waste;
- B. Nonprocessable waste;
- C. Putrescible waste; and
- D. Household hazardous waste.

REFUSE CONTAINER

A receptacle which is constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting and having a tight-fitting lid capable of preventing entrance into the container by vectors or a polyethylene bag which is specifically designed for storage and collection, is protected against animal damage and overloading so as to prevent littering or attraction of insects or rodents, and has a holding strength capable of withstanding normal stresses until it is collected. With respect to residential units, the weight of a refuse container and its contents shall not exceed 30 pounds nor shall its capacity exceed 32 gallons.

REGULATED MUNICIPAL WASTE

Any solid waste generated or collected within the Borough which is 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 waste" or "hazardous waste" from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include designated recyclable materials or unacceptable waste.

RESIDENTIAL UNIT

Any single-family detached, semidetached or townhouse dwelling, or a dwelling unit within a multifamily building containing four or fewer dwelling units, excluding farms. When used in this chapter or the Borough's Policies and Procedures, the term "residential unit" shall also refer to any multifamily unit or nonresidential unit (eligible commercial establishment) that requests and receives approval from the Borough to use the collection services provided under the Municipal Contract(s).

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, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term does not include coal refuse as defined in the Coal Refuse Disposal Control Act or treatment sludges 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.

SCAVENGING

The removal of designated recyclable materials in violation of § 271- 13 of this chapter.

SINGLE STREAM

A system where recyclable materials, commonly fibers and glass, metal and plastic containers, are collected and processed together.

SLUDGE

Sewage sludge.

SOLID WASTE or WASTE

Any waste, including but not limited to municipal, residual, or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.

SOURCE SEPARATE or SOURCE SEPARATION

The process of separating, or the separation of, designated recyclable materials from other solid waste at the location where generated for the purpose of recycling.

STEEL CANS

The ferrous metal food or beverage containers commonly known as "tin cans."

TIRES

Any pneumatic rubber automobile, truck, or farm implement tire.

UNACCEPTABLE WASTE

The following types of solid waste are unacceptable waste unless approved by LCSWMA on a case-by-case basis:

- A. Chemotherapeutic waste;
- B. Drums, barrels, buckets and paint cans unless lids have been removed and interiors are cleaned and free of any residue;
- C. Explosives and ordinance materials;
- D. Gas cylinders, unless empty and delivered separate from other solid waste;
- E. Hazardous waste;
- F. Infectious/pathological waste; and
- G. Radioactive materials.

WHITE GOODS

A portion of regulated municipal waste consisting of large appliances, including the following: clothes washers, clothes dryers, dishwashers, freezers, refrigerators, stoves, ovens, hot-water heaters, air conditioners, dehumidifiers, furnaces, and electrical heaters.

YARD WASTE

All garden residues, leaves, shrubbery, tree trimmings smaller than six inches in diameter, grass clippings, and sod.

§ 271-3 Mandatory recycling.

All persons within the Borough shall source separate designated recyclable materials generated by such person or generated within a residential unit, multifamily unit or nonresidential unit occupied by such person.

§ 271-4 On-site collection and disposal.

Each person who owns a residential unit, multifamily unit or nonresidential unit within the Borough shall ensure that regulated municipal waste and designated recyclable materials generated at such residential unit, multifamily unit or nonresidential unit are collected and disposed of in accordance with this chapter, the Borough's Policies and Procedures, and LCSWMA Rules and Regulations.

§ 271-5 Residential units.

- A. Designated recyclable materials. Collection services for designated recyclable

materials shall be provided to all residential units by the contractor.

- B. Regulated municipal waste. Each person who owns or occupies a residential unit shall receive proper collection and disposal services as a municipal customer in the Borough's collection services program provided by the contractor.
- C. Each person who owns or occupies a residential unit shall prepare designated recyclable materials and regulated municipal waste for collection in accordance with this chapter and the Borough's Policies and Procedures. Refuse containers shall be placed at curbside in a manner such that said refuse container shall not spill, tip, or otherwise deposit refuse on the street or ground. Municipal customers shall insure proper on-site collection and disposal of regulated municipal waste.

§ 271-6 Multifamily units and nonresidential units

- A. Each person who owns or occupies a multifamily unit or nonresidential unit shall provide proper on-site collection and disposal for regulated municipal waste and designated recyclable materials by utilizing a permitted collector to collect and deliver such materials to a facility.
- B. Each person who owns or occupies a multifamily unit or nonresidential unit approved to receive services under the Municipal Contract shall comply with the Borough's Policies and Procedures established for residential units and, notwithstanding the provisions of § 271-7B and C of this chapter, shall source separate the recyclable materials designated in § 271-7A.
- C. Each person who owns a multifamily unit or nonresidential unit shall:
 - (1) Provide recycling containers at easily accessible locations for source separation of designated recyclable materials;
 - (2) Provide written instructions to all persons occupying each multifamily unit and nonresidential unit to ensure that all designated recyclable materials are source separated; and
 - (3) Provide collection of source-separated designated recyclable materials at a frequency of not less than once per month.

§ 271-7 Designated recyclable materials.

- A. Each person who owns or occupies a residential unit shall source separate the following recyclable materials: Clear glass, colored glass, aluminum, steel cans, plastic, newsprint, yard waste, tires, and white goods.
- B. Each person who owns or occupies a multifamily unit shall source separate the following recyclable materials: Clear glass, colored glass, aluminum, steel cans, plastic, newsprint, yard waste, tires, and white goods.
- C. Each person who owns or occupies a nonresidential unit shall source separate the following recyclable materials: Clear glass, colored glass, aluminum, steel cans, plastic,

newsprint, yard waste, high-grade office paper, corrugated cardboard, tires, and white goods.

§ 271-8 General requirements for placement and collection of regulated municipal waste and designated recyclable materials

- A. All persons who own or occupy residential units, multifamily units or nonresidential units shall comply with the following requirements:
- (1) No regulated municipal waste or designated recyclable materials shall be placed at curbside for collection more than 24 hours in advance of the scheduled time for collection. Refuse and recycling containers must be removed from curbside no more than 24 hours after collection.
 - (2) Regulated municipal waste or designated recyclable materials from residential units shall not be stored at curbside prior to collection. Regulated municipal waste or designated recyclable materials shall be stored in containers which shall prohibit the contents from being scattered by wind and rain and shall prohibit accessibility by rodents or other vermin.
 - (3) Regulated municipal waste and designated recyclable materials from multifamily units and nonresidential units may be placed in bulk containers of suitable size, shape and material so as to prohibit the contents from being scattered by wind and rain and shall prohibit accessibility by rodents or other vermin.
 - (4) All regulated waste or designated recyclable materials shall be placed curbside absent written authorization from the Borough and its Contractor.
- B. All permitted collectors and the contractor shall insure that collection of regulated municipal waste and designated recyclable materials shall comply with the following requirements:
- (1) Regulated municipal waste and designated recyclable materials shall be collected on the same day from residential units, unless otherwise authorized by the Borough, and collection shall be made a minimum of once a week.
 - (2) On-site collection from residential units shall occur on weekdays during hours established by the Borough. Notwithstanding the foregoing, Saturday collection will be permitted if a holiday has occurred within a week of the holiday, unless otherwise authorized by the Borough.
 - (3) No regulated municipal waste or designated recyclable materials shall be blown, scattered or deposited upon the ground in the process of collection.
 - (4) Each permitted collector and the contractor collecting regulated municipal waste shall collect and deliver, separately to a LCSWMA facility battery drop-off location, all battery bags placed at curbside by residential units.

§ 271-9 Collector permit requirements.

All persons who collect on-site, store, process or dispose of regulated municipal waste or designated recyclable materials within the Borough shall demonstrate, if so required by the Borough, that:

- A. A valid license has been issued by LCSWMA to the applicant.
- B. Applicant's operation is in conformity in all respects with the rules and regulations of the Pennsylvania Department of Environmental Protection (PADEP), LCSWMA, and all Borough Ordinances and the Borough Policies and Procedures.
- C. Regulated municipal waste and designated recyclable materials shall be suitably enclosed or covered in all vehicles to be used so as to prevent roadside littering, attraction of vectors, or the creation of other nuisances.
- D. All disposal of regulated municipal waste other than designated recyclable materials shall be at a facility.
- E. All designated recyclable materials shall be recycled and shall not be disposed of as regulated municipal waste.
- F. Insurance shall be obtained for the applicant's proposed operation in the Borough. A certificate of insurance demonstrating limits as follows:
 - (1) Required vehicle liability insurance: the minimum liability insurance required under state law.
 - (2) General liability: bodily injury, \$100,000 per occurrence, and property damage, \$100,000 per occurrence.
 - (3) Worker's compensation: as required by law.
- G. All equipment to be used have been properly licensed and inspected, and all operators have valid operators' licenses for the class of vehicle operated.
- H. Except as provided for in this Chapter, it shall be unlawful for any other person to collect, transport over any street or alley of the Borough, or dispose of any refuse accumulated in the Borough.

§ 271-10 Approved haulers.

- A. With respect to municipal contract waste and designated recyclable materials generated by municipal customers, no person other than the contractor shall collect, store, process or dispose of such municipal contract waste. With respect to regulated municipal waste other than municipal contract waste which is generated by municipal customers and regulated municipal waste which are generated by multifamily units or nonresidential units, no person other than a permitted collector shall collect, store, process or dispose of such waste. Notwithstanding the foregoing, municipal customers who generate waste other than municipal contract waste may deliver regulated

municipal waste or designated recyclable materials generated by the municipal customer directly to a LCSWMA facility.

- B. No person who generates, owns or possesses designated recyclable materials or regulated municipal waste shall, by Municipal Contract for collection services or otherwise, cause, permit or assist in the on-site collection, storage, processing or disposal of such waste by any person other than:
 - (1) The contractor with respect to municipal contract waste or designated recyclable materials generated by municipal customers; and
 - (2) A permitted collector with respect to regulated municipal waste other than municipal contract waste generated by municipal customers, and regulated municipal waste or designated recyclable materials generated by other customers, multifamily units and nonresidential units.
- C. Notwithstanding the provisions of §§ **271-6B**, **271-6C**, **271-10A** and **271-10B** above, any person who owns or occupies a residential unit or a farm may request from the elected body of the Borough approval to deliver to a LCSWMA facility the regulated municipal waste which was generated at such person's residence or farm. Approval of any such request for an exception to the requirement of using a permitted collector shall be within the sole discretion of the Borough and in any event shall not be granted absent firm proof by such person that such regulated municipal waste shall be delivered in a manner that is safe, sanitary and environmentally sound.
- D. The contractor and each permitted collector that collects on-site regulated municipal waste and designated recyclable materials generated in any residential unit, Multifamily unit or nonresidential unit shall complete monthly LCSWMA manifests, reporting the amount of regulated municipal waste and designated recyclable materials collected in the Borough. The original manifests shall be provided monthly to the LCSWMA, with a copy to the Borough, no later than the 15th day of the month following the month in which the regulated municipal waste was collected.
- E. Each permitted collector who provides regularly scheduled service for the on-site collection of regulated municipal waste from any multifamily units and nonresidential units shall also collect on-site designated recyclable materials from such multifamily unit and nonresidential unit. Each such permitted collector shall establish and shall notify each multifamily unit and nonresidential unit of procedures and collection schedules for the source separation, segregation and packaging of regulated municipal waste and designated recyclable materials.
- F. Recycling containers for residential units shall be provided by the Borough that shall retain title to all such recycling containers. The contractor and/or the Borough shall distribute recycling containers to all residential units customers in accordance with guidelines established by the Borough. Collection at residential units shall permit commingling of all aluminum, clear glass, colored glass, steel cans, and plastics in a single recycling container. The Contractor/Borough shall schedule collections for yard

waste, tires and white goods at least once annually and shall give each residential unit at least 30 days' advance notice of the schedule for such collections.

- G. Each permitted collector shall give written notice to each customer, multifamily unit and nonresidential unit of such permitted collector's obligations under this chapter and particularly the requirement to offer on-site collection services for designated recyclable materials.
- H. No permitted collector or the contractor who collects on-site or disposes of designated recyclable materials or regulated municipal waste shall, by contract for such services or otherwise, cause, permit or assist in the storage, collection, processing or disposal of designated recyclable materials in a manner which treats such materials as regulated municipal waste, or which is otherwise inconsistent with source separation or recycling. Any delivery of designated recyclable materials to a LCSWMA facility in accordance with the LCSWMA Rules and Regulations shall be deemed to satisfy the requirements of this § 271-10H.
- I. All regulated municipal waste and designated recyclable materials generated or collected in the Borough shall be delivered directly to a facility in accordance with the LCSWMA Rules and Regulations and without any intervening transfer, unloading, processing, sorting, salvaging, scavenging, or reuse of any portion of any load of such regulated municipal waste and designated recyclable materials from the time of its collection until the time of its delivery to the facility.

§ 271-11 Illegal dumping and open burning.

- A. No person shall store, process or dispose of any regulated municipal waste or designated recyclable materials except at a facility. Notwithstanding the foregoing, yard waste may be composted to the extent and in the manner provided in the Borough's Policies and Procedures on the property on which such yard waste was generated.
- B. No person shall process or dispose of any designated recyclable materials through open burning.

§ 271-12 Collection service fees.

- A. Fees for the collection and disposal of designated recyclable materials and regulated municipal waste provided by the municipal contractor(s) shall be charged to all municipal customers within the Borough. All occupiers of residential units within the Borough shall be liable for said service charge, but no one occupier of real estate shall pay more than one service charge per residential unit.
- B. All occupiers of residential units in the Borough by virtue of this service charge hereby shall be entitled to receive collection of designated recyclable materials subject to regulations and resolutions of the Borough for collection of designated recyclable materials. The municipal services fee shall apply regardless of whether the occupiers of residential units utilize the designated recyclable materials services provided by the Borough. The amount of the municipal service fee and the schedule for payment of

fees shall be adopted by resolution or ordinance from time to time by the Borough.

- C. The municipal service fees levied shall be collected in the same manner as other Borough bills.
- D. If any municipal service fee levied and assessed pursuant to this chapter shall not be paid when due, a penalty of 10% of the amount of the service charge due and unpaid shall be added thereto and collected.

§ 271-13 Scavenging.

From the time of placement for collection at curbside of any designated recyclable materials, all such designated recyclable materials shall be the property of the generator, the contractor or the permitted collector who has contracted to provide on-site collection, as provided in the Municipal Contract or a collection agreement. It shall be a violation of this chapter for any person, other than the contractor or a permitted collector, to collect or pick up, or cause to be collected or picked up, any such designated recyclable materials. Each such collection shall constitute a separate and distinct offense.

§ 271-14 Unauthorized collection.

It shall be a violation of this chapter for any person other than the contractor or a permitted collector to collect or pick up, or cause to be collected or picked up, any regulated municipal waste within the Borough. Each such collection shall constitute a separate and distinct offense.

§ 271-15 Existing contracts.

- A. No renewal or modification of any existing Municipal Contract, and no new contract for the storage, on-site collection, processing or disposal of regulated municipal waste or designated recyclable materials, shall be entered into after the effective date of this chapter unless such renewal or modification or new contract shall conform to the requirements of this chapter and the Borough's Policies and Procedures.
- B. No contract which is entered into, renewed, extended, modified or assigned after the effective date of this chapter shall provide for on-site collection services to be performed after the commencement date for municipal contract waste or designated recyclable materials generated by any municipal customer. This provision shall not apply to the Municipal Contract between the Borough and the Contractor. With respect to any contract which violates this § **271-15B**, such contract shall be deemed void and the hauler that is a party to such contract shall reimburse to the applicable municipal customer any funds which have been paid for such collection services and shall not collect or attempt to collect any funds for such collection services.

§ 271-16 Authorization of Borough.

The Borough shall have the power to issue the Borough's Policies and Procedures governing all matters set forth in this chapter and any other related matters be necessary or convenient by the Borough. The Borough's Policies and Procedures shall be effective when issued in writing and signed by the manager of the Borough. The Borough shall have the power to establish service fees, record and reporting requirements, and standards and procedures for the issuance, administration and revocation of licenses, as deemed necessary, including without

limitation, application procedures, fees, standards and conditions for licenses; the fixing of a monetary bond, with or without surety, to secure the compliance by any Permitted Collector with any such requirements, standards or procedures; and any other matters deemed necessary or convenient by the Borough. In the event of suspension or revocation of any license which is issued by the Borough, LCSWMA or PADEP, the person whose license is suspended or revoked shall refund to each customer any prepaid fees.

§ 271-17 Unlawful activity.

It shall be unlawful for any person to violate, or cause or permit or assist in the violation of, any provision of this chapter or any provision of the Borough's Policies and Procedures. All unlawful conduct shall also constitute a public nuisance.

§ 271-18 Violations and penalties.

Any person violating any provision of this chapter or any provision of the Borough's Policies and Procedures shall, upon conviction thereof in a summary proceeding, be liable to pay a fine or penalty of not less than \$600 plus costs of prosecution and, in default of the payment of such fines and costs, to undergo imprisonment for not more than 30 days. Each violation of any provision of this chapter or of any provision of the Borough's Policies and Procedures, and each day that such a violation continues, shall constitute a separate violation and offense.

§ 271-19 Persons liable.

For purposes of the obligations established by this chapter or the Borough's Policies and Procedures, and for purposes of any fine, penalty, imprisonment or other sanction, the terms "person," "municipal customer," "residential unit," "multifamily unit" and "nonresidential unit" shall include officers, directors and partners of any corporation or partnership or other legal entity having officers, directors or partners; and refer to, and impose joint and several liability upon, both the persons residing in or occupying any such residential, multifamily or nonresidential units and the owner, landlord, condominium owner's association and/or agent of an owner, landlord or condominium owner's association of such premises.

§ 271-20 Injunctive relief.

In addition to any other remedy provided in this chapter, the Borough may institute proceedings to restrain any violation of, or to require compliance with, this chapter and/or the Borough's Policies and Procedures.

§ 271-21 Concurrent remedies.

The penalties and remedies set forth in this chapter are in addition to, not in lieu of, any fines, penalties or remedies provided in the Borough's Policies and Procedures. The existence or exercise of any remedy shall not prevent the Borough from exercising any other remedy provided under this chapter or the Borough's Policies and Procedures, or available at law or equity including the filing of a lien for the nonpayment of service fees.

§ 271-22 Prior ordinances.

Any other ordinances, including Ordinance Number 948 which was adopted and approved on February 21, 1972, and Ordinance Number 1189 which was adopted and approved on August 13, 1990, which pertain to regulated municipal waste or designated recyclable materials are

hereby repealed to the extent of any inconsistency with this chapter.

§ 271-23 Containers; preparation for collection.

The receptacles shall be kept in the rear of the house, apartment building, storeroom, restaurant, etc., or shall be put in such places for the convenient collection of their contents prior to the time set for collections as shall be provided with the approval of the Borough for the collection of the same from the respective premises. At no time shall any vessels, receptacles or containers be placed or kept upon the alley, street, sidewalk or public place or in front of any building, residence or retail or wholesale establishment. Containers shall be accessible to the collector when called for, and each owner or person responsible for such garbage and/or rubbish shall provide sufficient receptacles to contain the garbage and/or rubbish.

§ 271-24 Time of collection.

It shall be unlawful for any collector, including a licensed hauler or other hauler, of regulated municipal waste and/or designated recyclable materials within the Borough of Ephrata to remove any such waste within the Borough of Ephrata between the hours of 7:00 p.m. and 5:00 a.m.