

**ORDINANCE FOR MUNICIPAL WASTE
AND SOURCE-SEPARATED RECYCLABLES
COUNTY OF BUCKS, PENNSYLVANIA**

ORDINANCE NO. 124

**AN ORDINANCE OF THE COUNTY OF BUCKS, PENNSYLVANIA, IMPLEMENTING
THE REVISION TO THE BUCKS COUNTY MUNICIPAL WASTE MANAGEMENT
PLAN APPROVED BY THE PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION ON JANUARY 17, 2006.**

WHEREAS, the County Commissioners of Bucks County approved and adopted a revision to the Bucks County Municipal Waste Management Plan (“Revised County Plan”) on May 10, 2004; and

WHEREAS, the Revised County Plan was submitted to each of the Bucks County Municipalities for comment and all pertinent municipal comments were incorporated into the Revised County Plan which was then submitted to the Pennsylvania Department of Environmental Protection (“PADEP”) for review and approval; and

WHEREAS, the PADEP approved the Revised County Plan on January 17, 2006 and conditioned its approval on the County submitting documents implementing the Revised County Plan by January 17, 2007; and

WHEREAS, the Revised County Plan approved by PADEP eliminates flow control as a means of providing capacity assurance; and

WHEREAS, since the adoption of the Revised County Plan by the County Commissioners, the Pennsylvania Commonwealth Court has ruled that counties and municipalities have no authority to impose licensing programs or impose licensing fees on municipal waste haulers; and

WHEREAS, each municipality in Bucks County has the power and duty to adopt any such ordinances deemed necessary to implement required elements of the Revised County Plan by the authority vested to it pursuant to Section 304 of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101), including the oversight of all persons that collect or transport municipal waste subject to the Revised County Plan to a municipal waste processing and/or disposal facility.

NOW, THEREFORE, the County Commissioners of Bucks County, Pennsylvania do hereby enact and ordain as follows:

SECTION NO. 1. SHORT TITLE.

This Ordinance shall be known and referred to as the “Bucks County Municipal Waste Collection and Transportation Ordinance.”

SECTION NO. 2. REPEAL OF PRIOR ORDINANCES.

Ordinances 80, 80A, and 80B are repealed in their entirety.

SECTION NO. 3. DEFINITIONS.

The following words and phrases as used in this Ordinance shall have the meaning ascribed to them herein, unless the context clearly indicates a different meaning:

“Act 90” – The Pennsylvania Waste Transportation Safety Act of 2002 (P.L. 596, No. 90, June 29, 2002).

“Act 97” – The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980).

“Act 101” – The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 1988-101, July 28, 1988).

“Collector or Waste Hauler” – shall mean any person, firm, partnership, corporation or public agency who is engaged in the collection and/or transportation of municipal waste and/or source-separated recyclable materials.

“Commercial Establishment” – means any establishment engaged in a non-manufacturing or non-processing business, including, but not limited to, stores, markets, offices, restaurants, shopping centers and theaters.

“County” – means the County of Bucks, Pennsylvania.

“Disposal” – means 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 to the waters of this Commonwealth. Disposal facilities include, but are not limited to, municipal waste landfills and construction/demolition waste landfills as defined by Act 101, Act 97, and/or DEP rules and regulations (25 Pa. Code Chapters 75 and 271).

“Department or PADEP” – shall mean the Pennsylvania Department of Environmental Protection.

“Industrial Establishment” – means any establishment engaged in manufacturing or production activities, including, but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

“Institutional Establishment” – shall mean any establishment or facility engaged in services, including, but not limited to, hospitals, nursing homes, schools and universities.

“Leaf Waste” – shall mean leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

“Licensed Collector or Licensed Waste Hauler” – shall mean a person who has written authorization from the PADEP under Act 90 to collect, haul, or transport or dispose of municipal waste.

“Municipality” – shall mean any of the 54 minor civil divisions in Bucks County, Pennsylvania.

“Municipal Waste” – means 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 under Act 97 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant, or air pollution control facility. The term does not include any source-separated recyclable materials.

“Person” – means any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, Federal government or agency, State institution or agency, or any other legal entity recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a fine, imprisonment, or penalty or any combination of the foregoing, the term “person” shall include the officers and directors of any corporation or other legal entity having officers and directors.

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

“Recycling” – means the collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste

(other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

“Scavenging” – shall mean the unauthorized and uncontrolled removal of any material stored or placed at a point for subsequent collection or from a processing or disposal facility.

“Source-Separated Recyclable Materials” – means materials, including leaf waste, that are separated from municipal waste at the point of origin or generation for the purpose of recycling.

“Transportation” – Means the off-site removal of any municipal waste at any time after generation.

For the purposes of this Ordinance, the singular shall include the plural and the masculine shall include the feminine and neuter.

SECTION NO. 4. MUNICIPAL ORDINANCE REQUIREMENT

Within three (3) months following the adoption by the County of Bucks of an ordinance implementing the Revised County Plan, each Bucks County municipality shall enact an Ordinance for the Collection and Transportation of Municipal Waste and Source-Separated Recyclables to be modeled after the model ordinance developed by the Bucks County Planning Commission. The intent of the individual municipal ordinance shall be to provide standards for the collection and transportation of municipal waste and source-separated recyclables and to ensure the proper reporting of recycling information.

SECTION NO. 5. PROHIBITED ACTIVITIES

1. It shall be unlawful for any person to collect and/or transport municipal waste from any residential, public, commercial, industrial or institutional establishment within any municipality in Bucks County without first securing written authorization to do so from PADEP under Act 90 and submitting a copy of that authorization and any required registration form to the municipality or municipalities in which they collect and/or transport municipal waste in accordance with the provisions of this Ordinance and the appropriate municipal ordinance.
2. It shall be unlawful for any person to store, collect and/or transport municipal waste or source-separated recyclable materials from any sources within Bucks County in a manner not in accordance with the provisions of this Ordinance, any applicable municipal ordinance, the Revised County Plan, Act 90, Act 101, the minimum standards and requirements established in Chapter 285 of the DEP's Municipal Waste Management Regulations, any applicable Bucks County Department of Health regulations, and/or any other federal, state, or local regulations.
3. It shall be unlawful for any person to scavenge any material from any municipal waste or source-separated recyclable materials that are stored or placed for subsequent collection within any municipality in Bucks County without prior approval from the municipality.

SECTION NO. 6. STANDARDS FOR COLLECTION AND TRANSPORTATION

All Collectors or Waste Haulers operating within Bucks County must comply with minimum standards and regulations pursuant to each individual municipal ordinance for the collection and transportation of municipal waste and source-separated recyclables.

SECTION NO. 7. AUTHORIZATION AND REGISTRATION REQUIREMENTS

1. No person shall collect, remove, haul or transport any municipal waste through or upon the streets of any Bucks County municipality without first obtaining written authorization from PADEP in accordance with the provisions of Act 90 and submitting a copy of that authorization and any required registration form in accordance with the respective municipal ordinance. This section shall not apply

to private individuals (e.g., homeowners) who wish to transport their own household waste or recyclables to county-designated facilities, nor to farmers, landscapers or nurserymen who collect, remove, haul or otherwise transport agricultural or other organic waste associated with their respective business activities.

2. All Collectors and Waste Haulers operating in Bucks County that have received written authorization from PADEP and submitted any necessary registration form to the municipalities in which they operate shall be considered a "Licensed Waste Hauler" or a "Licensed Collector."
3. Municipalities may not impose any licensing fee upon Licensed Waste Haulers and Licensed Collectors.
4. A registration form shall be supplied by the municipality if required pursuant to municipal ordinance.

SECTION NO. 8. REPORTING REQUIREMENTS

1. All of Bucks County's 54 municipalities and all Collectors and Waste Haulers operating within those municipalities shall participate in the Bucks County Municipal Waste Documentation Program. Said program shall be developed and put into operation within one year of PADEP approval of the Revised County Plan. The program will provide a system for documenting the origin of municipal waste and source-separated recyclable material by municipality and the ultimate disposal point of said waste and recyclables. Each Collector and Waste Hauler shall prepare and submit an annual report to the municipality on the official Hauler Recyclables Reporting Form. The report shall be submitted to the municipality on or before January 31 of each year, and include the following information relating to the preceding calendar year:
 - A. Total weight and/or volume of each type of municipal waste and/or source-separated recyclable materials collected from all sources within the municipality during each month of reporting period; and
 - B. Name of each processing and/or disposal facility used during the reporting period and total weight and/or volume of each type of municipal waste and/or source-separated recyclable materials delivered to each facility during each month of the reporting period.
 - C. Any other information determined to be necessary during the development and implementation of the Bucks County Municipal Waste Documentation Program.

SECTION NO. 9. PENALTIES

1. Any person who violates any provision of this Ordinance shall, upon conviction at a summary proceeding, be sentenced to pay a fine to the County of not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00), together with the costs of prosecution, or be imprisoned for a period not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.
2. Each municipality shall provide written notice to the County and PADEP regarding any Collector or Waste Hauler that commits any of the following actions:
 - A. Falsification or misrepresentation of any statements in any registration form;
 - B. Lapse or cancellation of any required insurance coverages;

- C. Collection and/or transportation of any municipal waste in a careless or negligent manner or any other manner that is not in compliance with the requirements of this Ordinance, applicable municipal ordinance, Bucks County Department of Health regulations, and/or any applicable federal, state or local regulations.
- D. Violation of any part of this Ordinance, any other applicable municipal ordinances or any applicable federal or Pennsylvania laws or regulations.

SECTION NO. 10. INJUNCTIVE PROVISIONS

The Bucks County Commissioners may petition the Bucks County Court of Common Pleas for an injunction, either mandatory or prohibitive, in order to enforce any of the provisions of this Ordinance.

SECTION NO. 11. SEVERABILITY

In the event that any section, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, shall be declared illegal, invalid or unconstitutional for any reason, the remaining provisions of this Ordinance shall not be affected, impaired or invalidated by such action.

SECTION NO. 12. CONFLICT

Any ordinances or any part of any ordinances which conflict with this Ordinance are hereby repealed insofar as the same is specifically inconsistent with this Ordinance.

SECTION NO. 13. EFFECTIVE DATE

This Ordinance shall take effect on December 6, 2006.

ENACTED and ORDAINED by the County Board of Commissioners of the County of Bucks, this 6th day of December 2006.

BUCKS COUNTY COMMISSIONERS




 JAMES F. CAWLEY, Esquire, Chairman



 CHARLES H. MARTIN, Vice Chairman

Attest:



 DAVID M. SANKO
 Chief Operating Officer/Chief Clerk



 SANDRA A. MILLER, Commissioner