

ORDINANCE NO. 411-08

AN ORDINANCE OF THE BOROUGH OF SHOEMAKERSVILLE, BERKS COUNTY, PENNSYLVANIA, REPEALING ORDINANCE NUMBER 201 AND 284, AS WELL AS, RESOLUTION NUMBER 2004-17 OF THE BOROUGH OF SHOEMAKERSVILLE AND BY CREATING THE SOLID WASTE ORDINANCE OF THE BOROUGH OF SHOEMAKERSVILLE, RELATING TO THE PROMOTION OF PUBLIC HEALTH, SAFETY AND WELFARE WITHIN THE BOROUGH OF SHOEMAKERSVILLE BY PROVIDING FOR THE COLLECTION AND DISPOSAL OF RECYCLABLE MATERIALS, LEAF WASTES, AND REFUSE FROM WITHIN THE BOROUGH AND BY PROVIDING FOR FINES AND PENALTIES FOR VIOLATIONS OF THE SAME.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Shoemakersville, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1. The Borough Council of the Borough of Shoemakersville hereby repeals Ordinance Number 201, Ordinance Number 284 and Resolution Number 2004-17.

SECTION 2. The Borough Council of the Borough of Shoemakersville hereby creates and enacts The "Solid Waste Ordinance" of the Borough of Shoemakersville which shall read as follows:

SOLID WASTE

Section 1. Title.

The short title of this article shall be the "The Borough of Shoemakersville Solid Waste Ordinance," and the same may be cited in that manner.

Section 2. Definitions.

The following words and phrases throughout this article shall have the following meanings:

- A. ACT - The Municipal Waste Planning, Recycling and Waste Production Act of 1988, 53 P.S. § 4000.101 et seq.
- B. ALUMINUM CANS - All disposable containers made and fabricated primarily of aluminum and most commonly used to contain soda, beer and other beverages.
- C. ASHES - The residue generated from the burning of wood or coal in dwellings, hotels, stores and churches.
- D. BIMETALLIC CANS - Food and beverage containers which will adhere to magnet (containers made of iron, steel or a metal alloy).

- E. **BOROUGH** - The Borough of Shoemakersville.
- F. **COLLECTOR** - The entity or entities authorized by the Borough to collect recyclable materials, rubbish, refuse, or ashes from residences within the Borough or authorized by residents, commercial, municipal and institutional establishments that do not receive collection services from the Borough to collect recyclable materials, rubbish, refuse and/or ashes from those properties.
- G. **COMMERCIAL ESTABLISHMENTS** - Those properties used primarily for commercial or industrial purposes.
- H. **COMMUNITY ACTIVITIES** - Events that are sponsored by public or private agencies or individuals that include, but are not limited to, fairs, bazaars, socials, picnics, shows and organized sporting events attended by 200 or more individuals per day.
- I. **CORRUGATED PAPER** - Any paper product form or shaped into wrinkles or folds or into alternating ridges and grooves, including but not limited to, cardboard or paperboard.
- J. **DESIGNATED RECYCLABLE MATERIALS** - Those materials specified by the Borough of Shoemakersville to be recycled after public notice.
- K. **FERROUS CONTAINERS** - Empty steel or tin coated food or beverage containers.
- L. **GLASS CONTAINERS** - All products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packaging or bottling of various matter or liquid, and all other material commonly known as "glass", specifically including green glass, brown glass and clear glass and specifically excluding blue glass, black glass, plate glass, light bulbs, non-container glass, porcelain and ceramic.
- M. **HIGH-GRADE OFFICE PAPER** - All white paper, bond paper and computer paper used in commercial, institutional and municipal establishments.
- N. **INSTITUTIONAL ESTABLISHMENT** - Those facilities that house or serve groups of people, including but not limited to hospitals, schools, nursing homes, day-cay centers and prisons.
- O. **LEAD ACID BATTERIES** - Includes, but is not limited to, automotive, truck and industrial batteries that contain lead.
- P. **LEAF WASTE** - Leaves from trees, bushes and other plants, garden residues, chipped shrubbery and tree trimmings, but specifically excluding grass clippings.
- Q. **MUNICIPAL ESTABLISHMENT** - Public facilities operated by the Borough and other governmental and quasi-governmental authorities.

- R. **MUNICIPAL WASTE** - Any garbage, refuse, industrial lunchroom or 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, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.
- S. **NEWSPAPERS** - Paper of the type 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 have been soiled and glossing advertising inserts or mailers.
- T. **PERSON(S)** - Owners, lessees and occupants of residences and commercial, municipal and institutional establishments.
- U. **RECYCLABLE MATERIALS** - Those materials specified by the Borough of Shoemakersville for separation, collection, processing, recovery or reuse as part of a recycling program.
- V. **RECYCLING** - The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste 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.
- W. **REFUSE OR RUBBISH** - Materials considered municipal waste, including any garbage, industrial luncheon or office waste, including solid, liquid, semi-solid or contained gaseous material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, and other materials not defined as residual, hazardous, infectious/pathological, liquids or explosive waste, construction or demolition debris or recyclable materials.
 - i) Refuse or Rubbish shall not include industrial refuse such as solid waste resulting from industrial process and manufacturing operations, such as food processing waste, boiler house cinders, lumber scraps and shavings, metal scraps and shavings and similar materials.
 - ii) Refuse and/or Rubbish shall include paper, old shoes, tin cans, old pieces of lumber, yard sweepings, bottles, glass and stovepipe, fly screens and ordinary household accumulations.
- X. **RESIDENCES** - Any occupied single or multifamily dwellings for which the Borough provides municipal waste collection service.
- Y. **SOURCE-SEPARATED RECYCLABLE MATERIALS** - Those materials separated at the point of origin for the purpose of being recycled.

- Z. **SUSTAINED EDUCATION PROGRAM** - The ongoing effort of the Borough of Shoemakersville to inform the general public concerning the requirements of this article.
- AA. **WASTE** - A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include source-separated recyclable materials or material approved by the Pennsylvania Department of Environmental Protection for beneficial use.

Section 3. Disposal to be in accordance with this Chapter.

No person shall dispose of rubbish, refuse or ashes in the Borough, except in accordance with this Ordinance. It shall be the responsibility of the property owner to make sure that all rubbish, refuse or ashes which are disposed of from his/her or its property is done so in accordance with the regulations in this Ordinance.

Section 4. Public Collection Regulation.

- A. Every occupant or owner of a Residence located within the Borough shall dispose of all his/her rubbish in a clean and sanitary manner by placing it in the rubbish containers required by this Ordinance.
- B. Garbage shall be drained free of liquids and wrapped securely in paper and shall be placed for collection, mixed with the rubbish or refuse in waterproof covered containers. Such containers shall be kept clean and disinfected. The borough may refuse to collect un-drained garbage of a liquid or semi-liquid nature, unwrapped or improperly contained.
- C. Rubbish or refuse shall be stored and placed out for collection in waterproof metal or plastic containers which shall not exceed a capacity of thirty (30) gallons. All containers shall be provided with tight-fitting lids which are windproof, rat proof and fly proof. The lid shall not, however, be roped, chained or permanently affixed to the container unless hinged by the factory. All containers must contain the street address of the owner in clear, legible and conspicuous writing on the outside of the container.
- D. Paper, including cardboard and material of like nature, maybe separated from the rest of the rubbish and must be securely tied or bailed together with suitable cord or wire or placed in a combustible bag or box, which box or receptacle shall be removed, with the paper as rubbish. Glass, leaves, hedge and vine trimmings when placed in combustible containers or baskets shall be removed in the same manner as paper. All vines, hedge and brush trimmings and similar growth shall be no more than three (3) feet in length.
- E. Receptacles containing frozen refuse shall not be emptied unless the collection operation has been delayed in its schedule for more than six (6) hours.

- F. No rubbish or refuse container, including the contents thereof, shall exceed seventy-five (75) pounds.
- G. No live coals or fire shall be placed in any container or placed out for collection.
- H. No infectious or diseased-bearing waste or rubbish, inflammables or explosives, or human or animal feces shall be placed in any container or placed out for collection. The removal of such items shall be performed under the supervision and direction of such persons from time to time designated by the Borough.
- I. No chemicals, oils, pesticides, herbicides or hazardous waste, as these terms are defined by the Department of Environmental Resources or the Environmental Protection Agency, shall be placed in any container or placed out for collection.
- J. It shall be unlawful to burn, whether open or contained, any garbage, rubbish or refuse, recyclable materials, leaves or yard waste as defined in this Ordinance, unless the property owner or resident has been granted a burn permit from the Borough.
- K. No deposit of ashes or other refuse shall be made in any street, lane, alley or upon any open space or ground or in any creek within the limits of the Borough.
- L. When any dumb animal shall die within the limits of the Borough, the owner or person in possession of it shall within twelve (12) hours thereafter cause the carcass to be removed and disposed of at such place as may be permitted by the Borough Council. The carcass or carcasses of dead mice, rats, cats, dogs, or any other animal shall not be placed in containers for collection.

Section 5. Additional collection regulations.

- A. Combined rubbish, refuse and/or ashes shall be collected from each residence at least once a week, as specified by the Borough.
- B. All properties within the Borough which generate 4 thirty gallon cans (or their equivalent) or fewer per week of garbage, rubbish and refuse shall be required to receive garbage, rubbish and refuse collection once each week by the Borough or its authorized agent. Any residence generating more than 4 thirty gallon cans (or their equivalent) in a week shall be required to purchase specially marked Garbage Bags from the Borough, supplied by the Designated Borough Collector, to place the excess rubbish in for collection.
- C. Persons required to avail themselves of the use of private collectors shall have at least one collection a week or more often as necessary to protect the public health and safety, with more frequent collections if, in the opinion of the Code Officer of the Borough or the Fire Chief, the public health and safety so require it. The Borough will not collect any rubbish from properties which are required to employ a private collector.

- D. Rubbish, refuse and ashes shall be collected from the curb on the days specified by borough regulations. Containers shall be set out no later than 7 a.m. on the day of collection and not earlier than 6 p.m. of the day preceding collection. Empty containers will be taken inside the property lines not later than 12 o'clock midnight of collection day.
- E. Borough vehicles or those of Borough contractors will not enter private property for the purpose of collecting refuse or rubbish without a legal release from damages signed by the owner of such property. Releases will be obtained if, in the opinion of the Code Officer for the Borough, it is advantageous to the Borough to have Borough vehicles enter such property. Property and accesses thereto must be large enough so as not to impede or delay the movements of borough vehicles.
- F. Collections which fall on legal holidays will be collected starting on the following day or as advertised by the Borough.

Section 6. Accumulations of waste and littering prohibited.

Any person owning or occupying any building, lot or premises shall allow any garbage, waste, refuse, refuse or abandoned vehicles to collect or remain upon said property; provided, however, that this prohibition shall not construed as interfering with construction under a valid permit during the course of construction and within a reasonable time thereafter or the piling of wood neatly for fireplace or kitchen use. No garbage, refuse or rubbish or abandoned vehicles shall be permitted to accumulate on the ground nor be deposited on highways, streets, alleys, sidewalks, vacant lots or public grounds nor be thrown into a stream or other body of water.

Section 7. Private collection regulations.

- A. Persons who utilize private collectors or who are not eligible to have their rubbish, refuse and/or ashes collected by the Borough under the terms of this Ordinance shall have their rubbish, refuse and/or ashes collected at least once a week, or more frequently when it is determined by the Borough that such additional collections are necessary to protect the public health, safety and welfare. The Borough will not collect any rubbish, refuse and/or ashes from any person who utilizes or shall be required to utilize a private collector under the terms of this Ordinance.
- B. All dumpsters utilized by private collectors for the collection of rubbish, refuse and/or ashes as required by this Ordinance shall comply with the regulations set forth herein and shall be located on private property and shall be in area enclosed by fencing and screening to a height at least one foot higher than the dumpster. The screening shall be constructed of metal, wood or such other material as to completely hide the dumpster(s) from view and shall be further constructed to minimize access to the dumpster(s) by animals. The fencing and screening shall at all times be maintained in good repair.

- C. The fencing and screening of dumpsters as required by Subsection B hereof shall be completed in accordance with Subsection B within ninety (90) days of the effective date hereof. Persons who are unable to comply with the screening and fencing requirements may file a written request for an exception thereto with the Codes Officer of the Borough. An hearing on the requested exception shall be held at the next regularly scheduled meeting of the Borough Council unless such meeting is less than ten (10) days from the filing of the written request, whereupon the hearing will be held at the second regularly scheduled meeting of the Borough Council. At the conclusion of such hearing, the Borough Council shall, within forty-five (45) days of such hearing, render a decision granting, conditionally granting or denying the requested exception. The person seeking the requested exception shall bear the burden of demonstrating inability to comply with the requirements of this Ordinance.

- D. Private collectors shall be permitted to collect, remove and transport rubbish, refuse and/or ashes within the Borough on all days of the week except Sunday and the following holidays:

New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Unless otherwise authorized by the Code Officer for the Borough, the collection of garbage, rubbish and refuse shall not commence before 7 a.m. and may not continue after 6 p.m.

- E. The private collector shall operate their vehicle within the Borough so as to cause the least possible disruption to traffic flow on Borough streets.

- F. Private collectors operating within the Borough must offer to all residential, commercial, institutional, municipal establishments and community activity customers the pickup of clear glass, brown glass, green glass and aluminum cans. Private collectors are to provide containers to residential customers for the above listed recyclable materials and must deliver the recyclables to a recycling facility or to a recycling facility's agent.

- G. No later than January 20 of each calendar year, private collectors shall notify each customer of the total pounds of recyclable material recycled in the prior calendar year. Each customer shall notify the borough of the amount of the reported recyclable material no later than February 1st of each calendar year.

Section 8. Interference with refuse out for collection prohibited.

It shall be unlawful for any person not authorized to do so to remove the lid from any refuse container and to collect, molest or scatter refuse set out for collection.

Section 9. Use of private collectors not to relieve from compliance.

The use of private collectors will not relieve any person from compliance with this Chapter.

Section 10. Establishment of recycling program.

The Borough hereby establishes a recycling program for the mandatory separation and collection of recyclable materials by persons and the separation, collection and composting of leaf waste from all residences and all commercial, municipal and institutional establishments located in the Borough or any other collector. Collection of the recyclable materials shall be made at least once per month by the Borough, its designated agent or any other solid waste collectors operating in the Borough and authorized to collect recyclable materials from residences and from commercial, municipal and institutional establishments. The recycling program shall also contain a sustained public information and education program.

Section 11. Residential separation and collection.

- A. All persons who are residents of the Borough shall separate all of those recyclable materials designated by the Borough from all other municipal waste produced at their homes, apartments and other residential establishments, store such materials for collection and place same for collection in accordance with the guidelines established hereunder.
 - (1) Persons residing in Residences within the Borough must separate recyclable materials from other refuse. Except as provided in Sections 13 and 14, all recyclable materials within the Borough shall be placed at the curbside in containers provided to residences for collection. Containers provided to residences for collection of recyclable materials shall be the property of the Borough and shall be used only for the collection of recyclable materials. Any resident who moves within or from the Borough, shall return the allocated container to the Borough or shall pay the replacement cost of said container. Use of recycling containers for any purpose other than the designated recycling program or use of the recycling containers by any persons other than the person allocated such container shall be a violation of this article.
 - (2) Persons not served by the Borough shall separate recyclable materials from other refuse. An owner, landlord or agent of an owner or landlord of such person shall comply with its recycling responsibilities by establishing collection of the recyclable materials at least once per month by any solid waste collector operating in the Borough and authorized to collect recyclable materials from residences.
 - (3) An owner, landlord or agent of an owner or landlord of a multifamily rental housing or condominium property not within the Borough with four or more units may comply with its recycling responsibilities by establishing a collection system at each property. The collection system must include suitable containers for collection and sorting the recyclable materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords and agents of owners or

landlords who comply with this article shall not be liable for noncompliance of occupants of their building.

- (4) If recyclable materials are collected by a solid waste collector other than the Borough or its authorized agent, said solid waste collector shall submit an annual written report, on a form provided by the Borough, to the Borough Secretary each year no later than January 15, reporting the tonnage of materials recycled in the Borough of Shoemakersville during the previous year.
- (5) Designated recyclable material for Borough residences shall consist of the following materials:
 - (a) Newsprint.
 - (b) Bimetal cans.
 - (c) Ferrous containers or tin cans.
 - (d) Aluminum cans.
 - (e) Clear glass.
 - (f) Brown glass.
 - (g) Green glass.
- (6) All recyclable materials for residential collection shall be prepared for collection in accordance with the following:
 - (a) All newspaper shall be placed in a paper bag or tied in bundles not exceeding 35 pounds in weight nor exceeding one foot in thickness.
 - (b) Glass containers shall have caps and lids removed.
 - (c) Glass and cans shall be placed in a commingled container.
 - (d) Materials must be placed at the roadside no later than 7:00 a.m. in the Borough. The bundled newspapers and commingled glass and cans shall be placed at the curbside for collection adjacent to one another.
- B. All persons must separate leaf waste from other municipal waste generated at their house, apartment and other residential establishment for collection unless those persons have otherwise provided for composting of leaf waste.

Section 12. Mandatory commercial and institutional source separation program.

- A. All persons within the Borough who are not residents and who are not served by Municipal Trash Collection and the recycling program established by this article shall source-separate and arrange for the collection for recycling of all designated

recyclables within 60 days of the date upon which the Borough publishes notice in the newspaper of general circulation within the Borough.

- B. Designated recyclable for the mandatory commercial and institutional source separation program shall consist of the following materials:
 - (1) Newsprint.
 - (2) Bimetal cans.
 - (3) Ferrous containers or tin cans.
 - (4) Aluminum cans.
 - (5) Clear glass.
 - (6) Brown glass.
 - (7) Green glass.
 - (8) Cardboard.
 - (9) High-grade office paper.
 - (10) Lead acid batteries.
- C. Other recyclable materials may be designated by the Borough 30 days after said designation and publication of notice in a newspaper of general circulation within the Borough.
- D. The arrangement for collection of designated recyclable materials for disposition hereunder shall be the responsibility of the person who generates recyclable or the person contractually obligated to the generator to arrange for collection and disposal of its solid waste. Said arrangements may include, without limitation, direct marketing of recyclable, delivery to a drop off, contracts with solid waste collectors/haulers for separate collection of any or all designated recyclable, contracts with other persons for separate collection of any or all designated recyclable or direct delivery to the designated sites.
- E. Reporting requirements. For the purpose of reporting as required by the Commonwealth of Pennsylvania, all commercial and institutional establishments must report amounts and types of recyclables to the Borough, on a form provided by the Borough for such purposes, annually or so often as deemed necessary by the Borough. Reports for the preceding year shall be due to the Borough by January 15 of each year.

Section 13. Ownership of recyclable materials.

All recyclable materials placed by persons for collection by the Borough or authorized collector pursuant to this article shall, from time of placement at the curb, become the property of the Borough. Nothing contained in this article shall be deemed to impair the ownership of separated recyclable materials by persons unless and until such materials are placed at the curbside for collection.

Section 14. Existing recycling operations.

Any residence or commercial, municipal or institutional establishment may donate or sell recyclable materials to any person, firm or corporation, whether operating for profit or not. Nothing contained in this article and any existing recycling operations.

Section 15. Recycling of material.

Disposal by persons of recyclable materials with waste is prohibited and shall be a violation of this article. The collected recyclable materials shall be taken to a recycling facility. Disposal by collectors or operators of recycling facilities of source-separated recyclable materials in landfills or to be burned in incinerators is prohibited unless a prior exemption is obtained, in writing, from the Borough prior to the incineration or landfilling thereof.

Section 16. Non-collection of contaminated solid waste.

The Borough or at the direction of the Borough, the designated contractor collecting solid waste generated within the Borough may refuse to collect solid waste from any person who has clearly failed to source-separate recyclable materials designated under an applicable section of this article.

Section 17. Noninterference with existing contract.

- A. Nothing contained in this article shall be construed to interfere with or in any way modify the provisions of any existing contract which is consistent with the laws of the Commonwealth of Pennsylvania and in force in the Borough on the effective date of this article.
- B. No renewal of any existing contract upon the expiration of the original terms thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclable shall be entered into after the effective date of this article, unless such renewal or such contract shall conform to the requirements of this article.

Section 18. Violations and penalties.¹

Any person who violates or permits a violation of this article, upon being found liable therefore in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Borough in the enforcement of this

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

article. No judgment shall be imposed until the date of the determination of the violation by the District Justice and/or Court. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

SECTION 3. Inconsistent Ordinances Repealed. All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 4. Severability. The provisions of this Ordinance are severable and if any section, sentence, clause, or provision hereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause or provision had not been included herein.

SECTION 5. This Ordinance shall become at the earliest possible date permitted by law.

ENACTED AND ORDAINED as an Ordinance of the Borough of Shoemakersville, Berks County, Pennsylvania this 2nd day of September, 2008.

BOROUGH OF SHOEMAKERSVILLE

ATTEST:

Melissa Wagner
Secretary

By:

Clark Zimmerman
Clark Zimmerman, Council Person

Approved this 2nd day of September, 2008

Richard Kepner
Richard Kepner, Mayor