

OFFICIAL

BOROUGH OF AVALON

Ordinance No. 1190

AN ORDINANCE OF THE BOROUGH OF AVALON PROHIBITING THE ACCUMULATION, BURYING, AND BURNING OF GARBAGE AND OTHER REFUSE MATERIALS UPON PRIVATE PROPERTY IN SAID MUNICIPALITY, EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS ORDINANCE; REQUIRING THAT ALL GARBAGE, RUBBISH, AND OTHER REFUSE BE CONVEYED TO A TRANSPORTATION, PROCESSING OR DISPOSAL FACILITY DESIGNATED BY THE MUNICIPAL OFFICIALS; REGULATING THE CARE AND REMOVAL OF GARBAGE, RUBBISH, AND OTHER REFUSE MATERIALS AND PROVIDING FOR THE COLLECTION OF GARBAGE, RUBBISH, AND OTHER REFUSE MATERIALS ONLY BY LICENSED COLLECTORS IN SAID MUNICIPALITY; THE ESTABLISHMENT OF FEES AND CHARGES FOR THE COLLECTION OF GARBAGE, RUBBISH, AND REFUSE IN SAID MUNICIPALITY; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, pursuant to the authority vested to the municipality by the Pennsylvania Solid Waste Management Act of 1980 (Act 97), the Borough of Avalon is desirous of enacting an ordinance regulating the storage, collection, and disposal of rubbish, refuse, and garbage in the municipality.

NOW, THEREFORE, THE BOROUGH COUNCIL OF THE BOROUGH OF AVALON HEREBY ORDAINS:

SECTION 1. Short Title.

This ordinance shall be known and referred to as the "Solid Waste Ordinance".

SECTION 2. Definitions.

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

Act or Act 97 - The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980).

Agricultural Waste - means poultry and livestock manure, or residual materials in liquid or solid form, generated in the production, and marketing of poultry, livestock, fur-bearing animals and their products, provided such waste is not hazardous waste. The term includes the residual materials generated in producing, harvesting, and marketing of all agronomic, horticultural, silvicultural, and agricultural crops or commodities grown on what are usually recognized and excepted as farms, forests, or other agricultural lands.

Bulky Waste - means large items of solid waste including but not limited to appliances, furniture, large auto parts, trees, branches or stumps which may require special handling due to their size, shape, or weight.

Commercial Establishment - means any establishment engaged in nonmanufacturing or nonprocessing business, including but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.

Construction and Demolition Waste - means all municipal and residential waste building materials, grubbing waste, and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings and other structures and pavements.

Department - shall mean the Pennsylvania Department of Environmental Resources.

Disposal - means the incineration, 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 the Commonwealth of Pennsylvania.

Garbage - means any solid waste derived from animal, grain, fruit, or vegetable matter that is capable of being decomposed by microorganisms with sufficient rapidity to cause such nuisances as odors, gases, or vectors.

Hauler or Private Collector - means any person, firm, copartnership, association or corporation who has been licensed by the municipality or its designated representative to collect, transport, and dispose of refuse for a fee as herein prescribed.

Hazardous Waste - means any solid waste or combination of solid wastes, as defined in the Act, which because of its quantity, concentration or physical, chemical, or infectious characteristics may: (1) cause or significantly contribute to an increase in mortality or an increase in 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.

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

Institutional Establishments - means any establishment engaged in service, including but not limited to hospitals, nursing homes, orphanages, schools and universities.

Municipal Waste - means 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.

Municipality - shall mean the Borough of Avalon, Allegheny County, Pennsylvania.

Person - means any individual, partnership, corporation, association, institutional, cooperative enterprise, municipal authority, Federal Government or agency, State institution and agency, or any other legal entity which is 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 waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, and resource recovery facilities.

Refuse - means all solid waste materials which are discarded as useless.

Residual Waste - means any garbage, refuse, other discarded material or other waste including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, mining or agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility or air pollution control facility, provided that it is not hazardous. The term residual waste shall not include coal refuse as defined in the "Coal Refuse Disposal Control Act". Residual waste shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with valid permit issued pursuant to "The Clean Streams Law".

Rubbish - means all non-putrescible municipal waste except garbage and other decomposable matter. This category includes but is not limited to ashes, bedding, cardboard, cans, crockery, glass, paper, wood and yard cleanings.

Scavenging - means the unauthorized and uncontrolled removal of material placed for collection or from a solid waste processing or disposal facility.

Sewage Treatment Residues - shall mean any coarse screenings, grit and dewatered or air-dried sludges from sewage treatment plants and pumpings from septic tanks or septage which are a municipal solid waste and require proper disposal under Act 97.

Solid Waste - means any waste, including, but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

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

Transportation - means the off-site removal of any solid waste at any time after generation.

Transfer Station - means any supplemental transportation facility used as an adjunct to solid waste route collection vehicles.

In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 3. Prohibited Activities.

1. It shall be unlawful for any person to accumulate or permit to accumulate upon any public or private property within the Municipality, any garbage, rubbish, bulky waste, or any other municipal or residual solid waste except in accordance with the provisions of this ordinance, any Department rules and regulations adopted pursuant to Act 97 and the Health Department Rules and Regulations, Article VIII.

2. It shall be unlawful for any person to burn any solid waste within the Municipality except in accordance with the provisions of this ordinance, any Department rules and regulations adopted pursuant to Act 97 and the Health Department Rules and Regulations, Article VIII.

3. It shall be unlawful for any person to haul, transport, collect, or remove any solid waste from public or private property within the Municipality without first securing a license to do so in accordance with the provisions of this ordinance.

5. It shall be unlawful for any person to scavenge any materials from any solid wastes that is stored or deposited for collection within the Municipality without prior approval by the Municipality.

6. It shall be unlawful for any person to salvage or reclaim any solid wastes within the Municipality except at an approved and permitted resource recovery facility under Act 97 and any Department rules and regulation adopted pursuant to Act 97.

7. It shall be unlawful for any person to throw, place or deposit, or cause or permit to be thrown, placed or deposited any solid waste in or upon any street, alley, sidewalk, body of water, public or private property within the Municipality except as provided in this ordinance.

SECTION 4. Standards for Storage of Solid Waste.

1. The storage of all solid waste shall be practiced so as to prevent the attraction, harborage or breeding of insects or rodents, and to eliminate conditions harmful to public health or which create safety hazards, odors, unsightliness or public nuisances.

2. Any person producing municipal waste shall provide a sufficient number of approved containers to store all waste materials generated during periods between regularly scheduled collections, and shall place and store all waste materials therein.

3. Any person storing municipal waste for collection shall comply with the following preparation standards:

A. All municipal waste shall be drained free of liquids before being placed in storage containers.

B. All garbage or other putrescible waste shall be securely wrapped in paper, plastic or similar material or placed in properly tied plastic bags.

C. All cans, bottles or other food containers should be rinsed free of food particles and drained before being placed in storage containers.

D. Garden clippings and tree trimmings shall be placed in approved containers or shall be cut and tied securely into bundles. Bundles shall not be more than four (4) feet in length, not more than two (2) feet in diameter and not more than forty (40) pounds in weight.

E. Newspapers and magazines shall be placed in approved containers or shall be tied securely into bundles of not more than forty (40) pounds in weight.

F. When specified by the Municipality or its designated representative, special preparation and storage procedures may be required to facilitate the collection and resource recovery of a certain waste material.

4. All municipal waste shall be stored in containers approved by the Municipality or its designated representative. Individual containers and bulk containers utilized for storage of municipal waste shall comply with the following standards.

A. Reusable containers shall be constructed of durable, watertight, rust and corrosion resistant material, such as plastic, metal or fiberglass, in such a manner as to be leak-proof, weather-proof, insect-proof and rodent-proof.

B. Reusable containers for individual residences shall have a tight-fitting cover and suitable lifting handles to facilitate collection.

C. Reusable containers for individual residences shall have a capacity of not less than ten (10) gallons nor more than forty (40) pounds.

D. Disposable plastic bags or sacks are acceptable containers provided the bags are designated for waste disposal. Plastic bags shall have sufficient wall strength to maintain physical integrity when lifted by the top, shall be securely tied at the top for collection, and shall have a capacity of not more than thirty (30) gallons and a loaded weight of not more than thirty-five (35) pounds.

E. All containers, either reusable or disposable, shall also comply with the minimum standards established by the National Sanitation Foundation.

5. Any person storing municipal waste for collection shall comply with the following storage standards:

A. Containers shall be kept tightly sealed or covered at all times. Solid waste shall not protrude or extend above the top of the container.

B. Reusable containers shall be kept in a sanitary condition at all times. The interior of the containers shall be thoroughly cleaned, rinsed, drained and disinfected, as often as necessary, to prevent the accumulation of liquid residues or solids on the bottom or sides of the containers.

C. Containers shall be used and maintained so as to prevent public nuisances.

D. Containers that do not conform to the standards of this ordinance or which have sharp edges, ragged edges or any other defect that may hamper or injure collection personnel shall be promptly replaced by the owner upon notice from the Municipality or its designated representative.

E. Containers shall be placed by the owner or customer at a collection point specified by the Municipality or its designated representative.

F. With the exception of pick-up days when the containers are placed out for collection, the containers shall be properly stored on the owner or customers premises at all times.

G. Bulk waste items such as furniture, automobile parts, machinery, appliances, and tires shall be stored in a manner that will prevent the accumulation or collection of

water, the harborage of rodents, safety hazards and fire hazards.

6. The storage of all municipal waste from multi-family residential units, commercial establishments, institutions and industrial lunchroom or office waste sources is subject to the regulations and standards set forth in this ordinance. The type, size and placement requirements for bulk containers shall be determined by the waste generator and the waste hauler, and are subject to approval by the municipality.

SECTION 5. Standards and Regulations for Collection.

1. The Municipality shall provide for the collection of all garbage, rubbish, and bulky wastes from individual residences and multi-family residential sources with less than four (4) units, or it may contract with a private collector or collectors to provide this essential residential collection service.

2. All households and homeowners shall utilize the residential collection service provided by the Municipality unless they can demonstrate that they have made alternative arrangements that are consistent with this ordinance and approved by the Municipality.

3. All multi-family residential sources (with four (4) or more units), commercial, institutional, and industrial establishments shall negotiate and individually contract collection service with the Municipality's collector or any other properly licensed waste hauler of their choice.

4. All residential garbage and rubbish shall be collected at least once a week. Bulky wastes shall be collected following prior arrangement with the Municipality's collector and payment of any required special fees.

5. All commercial, institutional, public and industrial lunchroom and office waste containing garbage shall be collected at least once a week. Rubbish collection from these sources shall be made as often as necessary to control health hazards, odors, flies, and unsightly conditions. The Municipality reserves the right to require more frequent collection when deemed necessary.

6. Residential collection schedules shall be published regularly by the Municipality or its contracted hauler.

7. All solid waste collection activity shall be conducted from Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m. or on Saturdays between the hours of 8:00 a.m. and 5:00 p.m., unless prior approval of any exception has been granted by the Municipality. No collection, hauling, or transporting of solid waste shall be permitted on Sunday.

8. All licensed haulers and haulers under contract with the Municipality shall comply with the following standards and regulations:

A. All municipal waste collected within the Municipality shall be conveyed by the hauler to a transfer station,

processing facility, or disposal site designated as approved by the Allegheny County Health Department.

B. Any trucks or other vehicles used for the collection and transportation of municipal waste must comply with the requirements of Act 97, and any Department regulations adopted pursuant to Act 97 and must be licensed by the Allegheny Department of Health.

C. All collection vehicles conveying domestic waste and garbage shall be watertight and suitably enclosed to prevent leakage, roadside littering, attraction of vectors, the creation of odors and other nuisances.

D. Collection vehicles for rubbish and other nonputrescible solid waste shall be capable of being enclosed or covered to prevent roadside litter and nuisances.

E. All solid waste shall be collected and transported so as to prevent public health hazards, safety hazards and nuisances.

F. All solid waste collection vehicles shall be operated and maintained in a clean and sanitary condition.

SECTION 6. Collection and Disposal Charges.

1. The governing body of the Municipality shall be authorized to make funds available, in accordance with the laws and procedures

of the Municipality, for the establishment, maintenance, and operation of a municipal solid waste collection and disposal system; or for the contracting of such service to a private collector.

2. Annual fee schedules (if appropriate) shall be published by the Municipality based on any competitively bid residential collection service contract that may be awarded by the Municipality.

3. The Municipality shall be responsible for the collection of any fees for solid waste collection and disposal from residential customers. Licensed haulers shall be responsible for the collection of any collection and disposal fees from commercial, institutional, and industrial customers.

SECTION 7. Administrative Appeals.

1. All appeals shall be made in writing to the governing body of the Municipality.

2. Pending a reversal or modification, all decisions of the Municipality shall remain effective and enforceable.

3. Appeals may be made by the following persons:

A. Any person who is aggrieved by a new standard or regulation issued by the Municipality may appeal within ten (10) days after the Municipality gives notice of its intention to issue the new standard or regulation.

4. The notice of appeal shall be served in writing and sent by certified mail with return receipt requested. Within twenty (20) days after receipt of the notice of appeal, the Municipality shall hold a public hearing. Notice of the hearing shall be sent to both parties in time to adequately prepare for the hearing. Notice shall be sent to the parties by certified mail with return receipt requested at the last known address in addition to publication in the local newspaper.

SECTION 8. Injunction Powers.

The Municipality may petition the Court of Common Pleas of Allegheny County, Pennsylvania, for an injunction, either mandatory or prohibitive, to enforce any of the provisions of this ordinance.

SECTION 9. Penalties.

Any person who violates any provision of this ordinance shall, upon conviction, be guilty of a misdemeanor which is punishable by a fine of not less than \$25.00, nor more than \$300.00, or in default of payment of such fine, then by imprisonment for a period of not more than thirty (30) days, or both. Each day of violation shall be considered a separate and distinct offense.

SECTION 10. Separability.

In the event that any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for

any reason, the remainder of such ordinance shall not be invalidated by such action.

SECTION 11. Conflict.

Any ordinance, or part thereof, conflicting with the provisions of this ordinance is hereby repealed insofar as the same affects this ordinance.

ORDAINED AND ENACTED this 16TH day of OCTOBER, 1990.

ATTEST:

Michael A. Dickson

BOROUGH MANAGER

Wayne D. D'Amore

PRESIDENT OF COUNCIL

EXAMINED AND APPROVED this 16TH day of OCTOBER, 1990.

Nicholas J. Grande

MAYOR