

OFFICIAL

BOROUGH OF AVALON

Ordinance No. 1191

AN ORDINANCE OF THE BOROUGH OF AVALON PROVIDING FOR ADMISTRATION AND REGULATIONS GOVERNING COLLECTION AND RECYCLING OF RECYCLABLE MATERIALS AND IMPOSING PENALTIES FOR THE VIOLATIONS THEREOF.

WHEREAS, the Act of July 28, 1988, No. 101, known as the Municipal Waste Planning, Recycling and Waste reduction Act, provides that each municipality of the Commonwealth shall have the power and duty to adopt and implement programs for the collection and recycling of municipal waste or source separated recyclable materials; and

WHEREAS, the reduction of the amount of municipal waste and conservation of recyclable materials has been an important public concern because of the growing problem of municipal waste disposal and its impact on the enviroment; and

WHEREAS, the collection of recyclable materials for recycling from residences and from commercial, municipal and institutional establishments in the Municipality will serve the general public interest by reducing the volume of municipal waste which must be disposed and conserving our natural resources.

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

SECTION 1. Title.

The short title of this ordinance shall be the Borough of Avalon Recycling Ordinance, and the same may be cited in that manner.

SECTION 2. Definitions.

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

Act 101 - shall mean the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988.

Aluminum - shall mean all empty aluminum beverage or food cans.

Bi-metal Containers - shall mean empty food and beverage containers consisting of steel and aluminum.

Collector - shall mean the entity or entities authorized by the Municipality to collect recyclable materials from residences, authorized by commercial, municipal and institutional establishments that do not receive collection services from the Municipality to collect recyclable materials from those properties.

Commercial Establishments - shall mean those properties used primarily for commercial or industrial purposes, and those multiple dwelling residential buildings containing four (4) or more dwelling units.

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

Corrugated Paper - shall mean structural paper material with an inner core shaped in rigid parallel furrows and ridges.

Ferrous Containers - shall mean empty steel or tin coated food or beverage containers.

Glass Containers - shall mean bottles and jars made of clear, green or brown glass. Expressly excluded are non-container glass, plate glass, automotive glass, light bulbs, blue glass and porcelain and ceramic products.

High Grade Office Paper - shall mean all white paper, bond paper and computer paper used in commercial, institutional and municipal establishments and in residences.

Institutional Establishment - shall mean those facilities that house or serve groups of people including, but not limited to, hospitals, nursing homes, orphanages, day care centers, schools and universities.

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

Leaf Waste - shall mean leaves from trees, bushes and other plants, garden residues, chipped shrubbery and tree trimmings, but not including grass clippings.

Magazines and Periodicals - shall mean printed matter containing miscellaneous written pieces published at fixed or

varying intervals. Expressly excluded are all other paper products of any nature whatsoever.

Multi-Family Housing Properties - shall mean any properties having four (4) or more dwelling units per structure.

Municipal Establishment - shall mean public facilities operated by the Municipality and other governmental and quasi-governmental authorities.

Municipal Waste - shall mean 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 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 plan, wastewater treatment plan, wastewater treatment plan or air pollution control facility. The term does not include source-separated recyclable materials.

Municipality - shall mean the Borough of Avalon.

Newspapers - shall mean paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded are newspapers that have been soiled, color comics, glossy advertising inserts and

advertising inserts printed in colors other than black and white often included with newspapers.

Person(s) - shall mean owners, lessees, and occupants of residences and commercial, municipal and institutional establishments.

Plastic Containers - shall mean empty plastic food and beverage containers. Due to the wide variety of types of plastics, the Municipality may stipulate specific types of plastic which may be recycled.

Recyclable Materials - shall mean materials generated by residences and commercial, municipal and institutional establishments which are specified by the Municipality and can be separated from municipal waste and returned to commerce to be reused as a resource in the development of useful products. Recyclable materials may include, but are not necessarily limited to, clear glass, colored glass, aluminum, steel and bimetallic cans high grade office paper, newsprint, corrugated paper, leaf waste, plastics, and any other items selected by the Municipality or specified in future revisions to Act 101. The recyclable materials selected by the Municipality may be revised from time to time as deemed necessary by the Municipality.

Recycling - shall mean the collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastic 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.

Residences - shall mean any occupied single or multi-family dwellings having less than four (4) dwelling units per structure for which the Municipality provides municipal waste collection service.

Source Separated Recyclable Materials - shall mean those materials separated at the point of origin for the purpose of being recycled.

Waste - shall mean 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 PA Department of Environmental Resources for beneficial use.

SECTION 3. Establishment of Program/Grant Power.

The Municipality hereby establishes a Recycling Program for the mandatory separation and collection of recyclable materials and the separation, collection and composting of leaf waste from all residences and all commercial, municipal and institutional establishments located in the Municipality for which waste collection is provided by the Municipality or any other collector. Collection of the recyclable materials shall be made at least once per month by the Municipality, its designated agent, or any other solid waste collector operating in the Municipality and authorized to collect recyclable materials from residences or from commercial,

municipal and institutional establishments. The Recycling Program shall also contain a sustained public information and education program.

Specific program regulations are provided as an attachment to this ordinance. The Borough Council is empowered to make changes to program regulations as necessary, as described in Section 10. Subsequent changes in the program regulations may be made through approval of the Borough Council and public notice and notification of all affected parties.

This Ordinance is ordained by the Council of the Borough of Avalon by and with the authority of the same.

SECTION 4. Lead Acid Batteries.

Disposal by persons of lead acid batteries with other municipal wastes is prohibited and shall be a violation of this ordinance.

SECTION 5. Separation and Collection.

A. All persons who are residents of the Municipality shall separate all of those recyclable materials designated by the Municipality from all other municipal waste produced at their homes, apartments and other residential establishments, store such materials for collection, and shall place same for collection in accordance with the guidelines established hereunder.

1. Persons in residences must separate recyclable materials from other refuse. Recyclable materials shall be placed at the

curbside in containers provided by the Municipality for collection. Any containers provided to residences for collection of recyclables shall be the property of the Municipality and shall be used only for the collection of recyclable materials. Any resident who moves within or from the Municipality shall be responsible for returning the allocated container(s) to the Municipality or shall pay the replacement cost of said container(s). Use of recycling containers for any purpose other than the designated recycling program or use of the recycling containers by any person other than the person allocated such container(s) shall be a violation of this Ordinance.

2. An owner, landlord, or agent of an owner or landlord of a multi-family rental housing property with four or more units may comply with its recycling responsibilities establishing a collection system at each property. The collection system must include suitable containers for collecting and sorting the recyclable materials, 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 ordinance shall not be liable for non-compliance of occupants of their buildings.

If recyclable materials are collected by a collector other than the Municipality or its authorized agent, owners, landlords and agents of owners or landlords shall submit an annual report to the Municipality reporting the tonnage of materials recycled during the

previous year, said report to be filed with the Borough Manager of the Borough of Avalon on or before January 10 of each year.

B. All persons must separate leaf waste from other municipal waste generated at their houses, apartments and other residential establishments for collection unless those persons have otherwise provided for composting of leaf waste.

C. Persons must separate high grade office paper, aluminum, corrugated paper, leaf waste and such other materials as may be designated by the Municipality generated at commercial, municipal and institutional establishments and from community activities and store the recyclable materials until collection. A person may be exempted from this paragraph if that person submits documentation to the Municipality annually indicating that the designated recyclable materials are being recycled in an appropriate manner.

If recyclable materials are collected by a collector other than the Municipality or its authorized agent, occupants of said establishments shall submit an annual report to the Municipality the tonnage of materials recycled during the previous year. Said annual report shall be filed with the Borough Manager of the Borough of Avalon on or before January 10 of each year.

SECTION 6. Ownership of Recyclable Materials.

All recyclable material placed by persons for collection by the municipality or authorized collector pursuant to this Ordinance shall, from time of placement at the curb, become the property of

the Municipality or the authorized collector, except as otherwise provided by Section 8 of this ordinance. Nothing in this ordinance shall be deemed to impair the ownership of separated recyclable materials by the generator unless and until such materials are placed at the curbside for collection.

SECTION 7. Collection by Unauthorized Persons.

It shall be a violation of this ordinance for any person, firm or corporation, other than the Municipality or one authorized by the Borough Council to collect recyclable materials placed by residences or commercial, municipal and institutional establishments one calendar day shall constitute a separate and distinct offense punishable as hereinafter provided.

Section 8. 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 provided that the receiving person, firm or corporation shall not collect such donated recyclable materials from the collection point of a residence or commercial, municipal or institutional establishment without prior written permission from the Borough Council to make such a collection.

SECTION 9. Recycling of Materials.

Disposal by persons of recyclable materials with wastes is prohibited and shall be a violation of this ordinance. The

collected recyclable materials shall be taken to a recycling facility designated by the Borough of Avalon. Disposal by collectors or operators of recycling facilities of source separated recyclable materials in landfills or to be burned in incinerators is prohibited and shall be a violation of this ordinance. The collected recyclable materials shall be taken to a recycling facility designated by the Borough of Avalon. Disposal by collectors or operators of recycling facilities of source separated recyclable materials in landfills or to be burned in incinerators is prohibited unless markets do not exist and the collectors or operators have notified the Borough Manager of the Borough of Avalon in writing.

SECTION 10. Enforcement and Administration

The Borough Manager is hereby authorized and directed to make reasonable rules and regulations for the operation and enforcement of this Ordinance as deemed necessary, including but not limited to:

A. Establishing recyclable materials to be separated for collection and recycling by residences, and additional recyclable materials to be separated by commercial, municipal and institutional establishments.

B. Establishing collection procedures for recyclable materials.

C. Establishing reporting procedures for amounts of materials recycled.

D. Establishing procedures for the distribution, monitoring and collection of recyclable containers.

E. Establishing procedures and rules for the collection of leaf waste.

Any person, firm or corporation who shall violate the provisions of this ordinance shall receive an official written warning of non-compliance for the first offense. Thereafter all such violations shall be subject to the penalties hereinafter provided.

Except as hereinafter provided, any person, firm or corporation who shall violate any of the provisions of this ordinance shall, upon conviction, be sentenced to pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00), and costs of prosecution for each and every offense.

The Municipality reserves the right not to collect municipal waste containing recyclable materials in combination with non-recyclable materials.

SECTION 11. Agreements.

The Municipality may enter into (an) agreement(s) with public or private agencies or firms to authorize them to collect all or part of the recyclable materials from curbside.

SECTION 12. Repeal and Severability.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. Should any part of this ordinance be held unconstitutional, or unenforceable by any court of competent jurisdiction, such invalidity shall not affect, impair, nullify or otherwise prevent the enforcement of the remainder of this ordinance. It is hereby declared that such parts as are legal would have been erected independently of the invalid portion had the invalidity of such part been known, and it is the intention of the Municipality that such remainder shall be and remain in full force and effect.

SECTION 13. Modifications.

The Municipality may, from time to time, modify, add to or remove from the standards and regulations herein and as authorized in Section 10.

SECTION 14. Effective Date.

This Ordinance shall take effect and be in force from and after its approval as required by law.

SECTION 15. 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. Dieka

BOROUGH MANAGER

Harold D. Stone

PRESIDENT OF COUNCIL

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

Nicholas J. Grande

MAYOR