

ORDINANCE 4-10

Replaces [Ordinance 4-9]

SOLID WASTE AND RECYCLABLES ORDINANCE

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SECTION 1: DEFINITIONS

the following words and terms used in this ordinance shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

1. **Aluminum;** Light in weight ductile and malleable metallic substance or element commonly known as "aluminum" and shall include all aluminum food and beverage cans. This description excludes aluminum foil, trays, plates and miscellaneous aluminum products until such time as Borough contractor allows these items to be recycled.
2. **Apartment Building;** A building used for residential purposes with more than two (2) dwelling units, except hotels, motels, tourist cabins and dormitories.
3. **Ashes;** The residue from the burning of wood, coal, coke and other combustible materials for the purpose of heating and cooking.
4. **Borough;** The Borough of Mercersburg, Franklin County, Pennsylvania; the Borough Council and the Borough Manager of the Borough of Mercersburg.
5. **Borough designated trash bag;** A special bag designated by the Borough and contractor used for the collection of solid waste in the Borough collection service above the weekly 3 bag limit per resident. Costs of bags to be set by the Borough and sold at the Borough office or other designated locations.
6. **Borough Collection Service;** A service for the collection of solid waste, recyclables, and bulky waste, which is provided by the exclusive Borough Collector.
7. **Borough Collector;** A person designated by the Borough by means of an independent contract to have the exclusive right and privilege, subject to certain limitations, to collect, haul and dispose of residential solid waste and recyclables within the Borough of

Mercersburg, but shall not be construed as meaning that such person is an employee, official or representative of the Borough.

8. **Borough Licensee:** A person, not the Borough collector, licensed by the Borough to collect, haul and dispose of solid waste and/or recyclables from person not exclusively within the area of responsibility of the Borough collector.
9. **Bulky Waste:** Large items of waste, including but not limited to appliances, furniture, large auto parts, trees, branches and stumps.
10. **Dormitories and Fraternities:** Buildings specifically designed or modified for student housing either on or off campus.
11. **Dwelling Unit:** One (1) or more rooms in a residential building, which room or rooms have fixed cooking facilities and intended for occupation by one (1) or more persons as a household.
12. **Garbage:** All table refuse, animal and vegetable matter, offal from meat, fish and fowl, fruits, vegetables and parts thereof and all other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.
13. **Glass:** The hard, brittle, 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 or conveniently included in the manufacture of "glass". This includes all materials commonly known as "glass bottles or containers" and all food and beverage containers made of glass of one (1) gallon or less capacity. Excluded are colored glass other than brown or green, ceramics, pottery and flat glass commonly known as "window or plate glass".
14. **Hazardous Waste:** Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as that term is defined by or pursuant to federal or state law.
15. **HDPE:** High-density polyethylene, identified as Plastic #2.
16. **Hotels and Motels:** Multi- unit buildings for the purpose of boarding more than two dwelling units of persons for short term occupancy as licensed by the state or county.
17. **Institutional Establishment:** Those facilities that house or serve groups of people for a common purpose, such as hospitals, schools and nursing homes, assisted living facilities and extended care facilities.
18. **Mixed Paper:** Junk mail, magazines, copy paper, index cards, writing paper, envelopes and glossy newspaper inserts. Mixed paper does not include thermal fax paper or carbon paper.
19. **Newspaper:** Types of paper made from wood pulp and/or other fibrous materials mixed together, either with or without chemicals to produce thin sheets of the products customarily and primarily used for the products customarily and primarily used for the production of newsprint; "newspaper" does not include magazine paper.

20. **Person:** Every natural person, firm, corporation, partnership, association or institution.
21. **PET:** Polyethylene terephthalate, identified as Plastic # 1.
22. **Processing Center:** Any *facility* maintained for the purpose of sorting, preparing and/or consolidating recyclables (as defined herein) for sale.
23. **Public Nuisance:** Any premises which is capable of being a fire, health or safety hazard due to but not limited to accumulations of any flammable materials, solid waste, recyclables or hazardous waste; or any premises which contains unauthorized accumulations of solid waste and/or recyclables.
24. **Recyclable Materials/Recyclables:** Includes clear and colored glass, aluminum cans, plastic (PET) #1, plastic (HDPE) #2, corrugated cardboard, newspaper, steel and bimetallic cans and such other materials as the Borough may designate.
25. **Recycling Collection Services:** Recycling services performed by the exclusive Borough collector which includes the collection of recyclable materials from locations specifically designated by the Borough, processing of recyclable materials as applicable and marketing of the recyclable materials.
26. **Recycling Containers:** Reusable containers for the collection of recyclables. Containers shall have a tight—fitting cover, or else shall have drainage holes adequate to prevent the collection of water. Containers shall not weigh over forty (40 Lbs.) pounds in weight.
27. **Residential Building:** A building used for residential purposes, except apartments with more than two (2) dwelling units, hotels, motels, fraternities and dormitories.
28. **Rubbish:** Branches, trees, wood, wooden ware, leather, rags, and all solid combustible materials not included in this section under the term “garbage”.
29. **Solid Waste:** All matter and materials which are discarded or rejected by the owners or producers thereof as offensive or useless, or which by their presence or accumulation may injuriously affect the health, comfort and safety of the citizens of the Borough; it shall include garbage and rubbish, but exclude human body waste; debris from household renovations, whether interior or exterior; dirt, rock; lead pipes; limbs or the trunks of trees greater than three (3) inches in diameter; hazardous waste; and recyclable items as defined herein.
30. **Solid Waste Collection services:** Those services to be performed by the Borough collector or a Borough licensee, which include the collection of solid waste from locations specifically designated by the Borough, the Borough collector or Borough licensee, transportation of solid waste in trucks and disposal of solid waste at a facility licensed by the Pennsylvania Department of Environmental Protection (DEP)
31. **Truck(s):** Vehicles(s) used for the collection of solid waste and recyclables which has mounted thereon an approved type sanitary body or which has a standard truck body equipped with means of covering to prevent loss of material by wind and to prevent drainage of liquids.

32. **Yard Waste:** Grass clippings, pruning, leaves and other discarded materials from yards and gardens.

SECTION 2: ESTABLISHMENT OF RECYCLING PROGRAM

A. Residential Buildings

On and after April 1, 1993, a voluntary recycling program was established. All persons who are owners, lessees or occupants of residential buildings within the Borough of Mercersburg may co-mingle recyclable materials and set them out for collection by the exclusive Borough collector at such times as are designed by the Borough. The recyclables to be accepted in the collection program will be determined subject to an agreement reached between the Borough and the exclusive Borough Collector and may include, but shall not be limited to, the following items:

1. Clear glass
2. Colored glass
3. Aluminum cans
4. Plastic No. 1 (PET)
5. Plastic No. 2 (HDPE)
6. Corrugated cardboard
7. Steel and bimetallic cans
8. Newspapers and paper grocery bags

B. Lead Acid Batteries to be Discarded

On and after April 1, 1993, it was mandatory for all persons within the Borough of Mercersburg to separate lead acid batteries from other solid waste and to dispose of such by delivery to an automotive battery retailer or wholesaler, to a secondary lead smelter permitted by the Environmental Protection Agency or to a collection or recycling facility authorized under the laws of the Commonwealth of Pennsylvania.

C. Modification of Recyclable Materials Collected

the Borough reserves the right to change the types of recyclable items depending on its contract with the exclusive Borough collector, and requirements of Pennsylvania state law, rule or regulations.

D. Community Groups

Community groups will be encouraged to occasionally recycle by obtaining, through a request in writing, Borough approval to do so. The Borough reserves the right to permit such groups to operate independently of the Borough program.

SECTION 3: STORAGE PRACTICES

A. Preparation of Solid Waste, Recyclables, Ashes and Bulky Waste

1. Preparation for collection by the Borough collector.
 - a. All garbage and rubbish shall be drained of liquids before being deposited for collection.
 - b. Recyclables shall be drained of liquids and rendered free of garbage and rubbish before being deposited for collection.
 - c. Ashes shall be stored in a noncombustible container until cool.

d. All materials shall be otherwise prepared for collection in accordance with any regulations established by the Borough.

2. Preparation for collection by the exclusive Borough licensee.

The manner of preparation of solid waste, recyclables ashes and bulky waste for collection by the exclusive Borough licensee is a matter of agreement between the private parties involved; provided, however, that such manner shall be subject to the power of regulation of the Borough and shall not be unnecessarily offensive to the senses, attractive to vectors, creative of other nuisances, unsafe or unhealthy.

B. Containers

1) Container to be collected by the Borough collector:

- a. All solid waste that is to be regularly collected by the Borough collector shall be placed in plastic bags, not to exceed thirty-three (33) gallons in volume or forty (40 lbs.) pounds in weight. Borough residents are permitted weekly pick up of up to 3 bags. If a resident has a trash bag volume above the three bag limit, additional special designated Borough bags may be purchased at a price set by the Borough. Special bags may be purchased at the Borough office or at other locations designated by the Borough. The price may be from time to time amended.
- b. Recyclables to be regularly collected by the Borough collector shall be placed in a container which is clearly distinguishable from the Borough bags used for the collection of solid waste. Container may not weigh over forty (40 lbs) pounds, must have a cover or have drain holes in it to allow water to drain.
- c. Newspapers and other decomposable material such as paper grocery bags shall be tied together in bundles using decomposable rope or twine, or shall be placed in paper grocery bags, and shall be placed next to the container(s) for other recyclable materials.
- d. Corrugated cardboard to be regularly collected by the Borough collector shall be tied together, using decomposable rope or twine, in bundles weighing not more than forty (40 lbs) pounds and no larger than four (4) foot by four (4) foot in dimensions and shall be placed next to the containers for other recyclable materials.
- e. Cooled ashes shall be placed in a trash bag for collection, provided that the filled bag weighs less than forty (40 lbs) pounds.
- f. Large bulky items that do not fit in trash bags may be picked up by the Exclusive Borough Collector by appointment and prior approval at the rate of one item per week. Persons may dispose of bulky waste weighing over forty (40 lbs) pounds privately or by waiting to dispose of such bulky waste by contacting the exclusive Borough collector

2) Containers to be collected by Borough licensee; the containers for solid waste, recyclables, and bulky waste to be collected by a Borough licensee are a matter for agreement between the private parties involved; provided, however, that such containers shall be subject to the power of regulation of the Borough; and that no manner of containing solid waste or recyclables for collection shall be unnecessarily offensive to the senses, attractive to vectors, creative of other nuisances or unsafe. In the case of bulky waste being by its nature impractical of containment and incapable of causing litter, no container shall be required for collection purposes.

C. Storing of Solid Waste and Recyclables

No person shall place any solid waste or recyclable in any street, alley or public place or upon any private property, whether owned by such person or not, within the Borough, except in proper containers for collection or under an express approval by the Borough. No person shall store any solid wastes in any street, alley or public place or upon any private property for more than ten consecutive days. No person shall throw or deposit any solid waste or recyclables in any stream or other body of water.

SECTION 4: YARD WASTE DISPOSAL PRACTICES

- A. No person may dispose of yard waste as a solid waste. It shall be a violation of this ordinance for the Borough Collector or Borough licensee to collect, haul, and store or in any way dispose of yard waste.
- B. Yard waste may be used for composting or burning subject to any regulations that the Borough may establish pursuant to this or other Borough ordinances.
- C. Yard waste may be stored for collection or distribution to other persons for use as compost. Such storage shall comply with any regulations concerning compost that the Borough may establish pursuant to this ordinance.
- D. Yard waste may be disposed of in other ways as may be from time to time established by the Borough.

SECTION 5: ESTABLISHMENT OF COLLECTION SYSTEM

A. Residential Buildings

On and after March 1 2005, solid waste and recyclables from all residential buildings within the Borough of Mercersburg shall be collected by the Borough collector. Solid waste shall be collected by the Borough collector from residential buildings weekly, and recyclables bi-weekly unless prevented by unusual circumstances.

B. Multi-Family

On and after March 1 2005, the owner, landlord or an agent of an owner or landlord of an apartment building shall contract with the Borough Collector or a Borough licensee for collection of solid waste and recyclables, said contract to provide for a practical system of separation, storage and collection of tenants' solid waste and recyclables. The collection system must provide containers that are suitable for collecting and sorting

materials, be easily accessible and include written instructions to the occupants concerning the use and availability of the collection system. Owners, landlords and agents of landlords who utilize either the Borough collector or Borough licensee as aforesaid shall not be liable for noncompliance of the occupants of their buildings. Recyclables shall be collected from apartment buildings bi—weekly. Solid waste shall be collected from apartment buildings as often as necessary, and specifically at least weekly, unless prevented by unusual circumstances.

C. Non—Residential Participation

Non—residential establishments, including but not limited to churches, offices and retail businesses, hotels, motels, extended care facilities, assisted living facilities, dormitories, and fraternities may participate in the collection and shall comply with all sections of this ordinance pertaining to residential buildings.

D. Solid Waste containers/Recyclable Containers

Unless otherwise provided herein, a Borough resident must place trash in plastic bags, not to exceed thirty-three (33) gallons in volume or forty (40) pounds in weight and must obtain and use a recycling container that meets the regulations of the Borough for collection of recyclables.

E. Exemption

Residents may request an exemption from the requirements of this ordinance for the disposal of a large volume of refuse created from more than ordinary household activities (such as moving, remodeling, etc) . The Borough shall not grant more than one large volume exemption per year per household. Except for the one-time exemption described herein, all Borough residents of residential buildings shall comply with the mandatory refuse collection as set forth in this ordinance.

F. Points of Collection

- 1) On the days designated by the Borough for collection of solid waste and recyclables, residents shall place out for collection solid waste and recyclables strictly conforming with the following:

Collection by the Borough collector: Solid waste and recyclables which are to be collected by the Borough collector from a given property shall be placed at ground level on the property or on the sidewalk abutting said property and not within the cart way of a street or alley. Said material shall be accessible to and not more than ten (10) feet from the side or curb of the street or alley from which collection is made. Said placement for collection shall be not more than twenty-four (24) hours prior to the time of a schedule collection.

- 2) Collection by a Borough licensee: Points of collection of solid waste and recyclables by a Borough licensee are a matter for agreement between the private parties involved; provided, however, that such points shall be subject to the power of regulation of the Borough, that no cartway of a street or alley shall be employed as a part for the placing of waste containers, that no sidewalk shall be employed for the placing of such containers in a manner which disrupts its functions; and that such points shall not constitute a nuisance, health or safety peril or unnecessary offense to the senses.

G. Hazardous Waste Disposal

Hazardous waste shall not be placed in containers for regular collections but shall be handled and disposed of in an alternate and safe manner and in accordance with all applicable federal, state and local statutes, ordinances, rules and regulations.

SECTION 6: LICENSE OR CONTRACT REQUIRED TO COLLECT, HAUL AND DISPOSE OF MATERIALS

A. It shall be unlawful for any person other than the Borough Collector to collect and haul solid waste or recyclables within the Borough of Mercersburg unless a license to so collect and haul such solid waste and recyclables shall have been first obtained from the County or State, except that the Borough at its sole discretion may waive the requirements of this section for community groups, pursuant to Section 2--d. Each such collection in violation hereof shall constitute a separate and distinct offense, punishable as hereinafter provided.

- 1) All persons hauling trash in the Borough may be required to show proof of a valid Municipal Solid Waste Hauler's License from Franklin County or the Commonwealth of Pennsylvania, and:
 - a. That his or her proposed operation is in conformity in all respects with the rules and regulations of the Pennsylvania Department of Environmental Resources respecting the collection and transportation of solid waste, with the regulations promulgated by the Borough pursuant to its authority under this section and with the provisions of this section.
 - b. That vehicles to be used in the collection and hauling of solid waste have mounted thereon an approved type sanitary body or have a standard truck body equipped with means of covering to prevent loss of material by wind and to prevent drainage of liquids.
 - c. That solid waste and recyclables shall be suitably enclosed or covered in such vehicles so as to prevent roadside littering, attraction of vectors or creation of other nuisances.
 - d. That regular collection days are provided for, with collection frequency to be as herein provided.
 - e. That no disposal of solid waste from the Borough of Mercersburg shall be effected other than at a solid waste processing or disposal facility covered by a permit from the Department of Environmental Resources and in conformity with the Department's rules and regulations pertaining thereto.
 - f. That no disposal of recyclables from the Borough of Mercersburg shall be effected other than at a materials recovery facility (MRF) or directly to recycling markets.

- 2) Any person who shall haul trash within the Borough shall be required to comply with all appropriate rules and regulations of the Pennsylvania Department of Environmental Resources. Failure to so comply shall constitute a violation of this ordinance.
- B. To the extent permitted by law, the Borough shall:
1. Inform residents of the benefits which may be obtained from recycling, the types of waste which are recyclable and the schedule for collection of recyclables.
 2. Use reasonable efforts to enforce the rules and regulations relating to containers for recyclables and proper preparation of recyclables by residents for collection by the Borough collector.
 3. Use reasonable efforts to obtain the cooperation of the private solid waste collection hauler(s) (if other than the Borough collector) with respect to mailing or delivering notices to residents, placing recycling stickers or signs on collection vehicles, or in other ways.
- C. The Borough collector and Borough licensee shall, on or before the 10th day of each month, provide a monthly recycling report to the Borough, which shall be submitted in the form, requested by the Borough, and shall include complete information with respect to the amounts of each recyclable material collected during the proceeding month.

SECTION 7: OWNERSHIP AFTER PLACEMENT AT CURB

Ownership of solid waste material and recyclables set out for collection by the Borough shall be vested in the collector as of the time it is collected by the collector.

SECTION 8: FEES

- A. The add on bags for trash quantities above the three bag limit will be available from the Borough of Mercersburg or from designated locations within the Borough for fees set by the Borough.. Fees, as enacted and ordained, may be from time to time amended.
- B. Ashes placed in Trash bags will be collected by the Borough Collector without additional charge, but must not weigh more than forty (40 lbs.) pounds.
- C. Unless otherwise provided herein, a Borough resident can use any trash bag bought at any store that is no more than thirty-three (33) gallons in capacity and no more than forty (40 lbs.) pounds in weight. Borough residents must also obtain and use a recycling container that meets the regulations of the Borough for storage of recyclables.
- D. Where collection by a Borough licensee is permitted, fees for the collection and disposal of solid waste, recyclables and bulky waste by such licensee are a matter for agreement between the private parties involved.

SECTION 9: ENFORCEMENT

- A. The Borough Manager and/or assistant Borough Manager shall have the authority to enforce the provisions of this ordinance as shall any Code Enforcement Officer or police officer of the Borough.
- B. The Borough Collector and Borough Licensee shall report any violation of this ordinance to the Borough on the day that the violation is observed.

SECTION 10: VIOLATIONS AND PENALTIES

- A. Any person violating any of the provisions of this ordinance shall be subject to a fine of not less than twenty—five dollars (\$25) nor more than three hundred dollars (\$300), plus costs of prosecution, and in default of payment of such fine and costs, to imprisonment for a term not exceeding thirty (30) days.
- B. Any owner, lessee or occupant of a residential building who disposes of solid waste through a means other than the Borough Collector shall be deemed to have violated this ordinance. Each such act in violation hereof shall constitute a separate and distinct offense punishable as herein provided.
- C. It shall be a violation of this ordinance for any person(s) unauthorized by the Borough to collect or pick up or cause to be collected or picked up any solid waste or recyclables. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as herein provided.
- D. Any premises on which conditions of waste exist causing it to be a public nuisance is prohibited. Failure to remove or remedy said public nuisance after receiving written notice to do so shall be deemed a violation of this ordinance, punishable as herein provided.
- E. Nothing herein is intended to preclude the Borough's exercise of any additional remedies, in law or in equity, for noncompliance with this ordinance.


SECTION 11: EFFECTIVE DATE, RESCISSION OF FORMER ORDINANCE

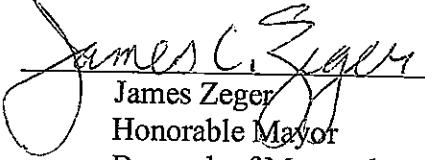
This Ordinance shall be effective March 1, 2006
The enactment of this ordinance rescinds Ordinance #4-9 its entirety

SECTION 12: SEVERABILITY

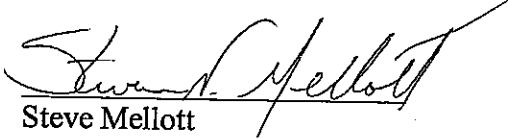
If any section, subsection, clause or phrase of this ordinance is held unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

ENACTED AND ORDINANED this Thirteenth day of February 2006 by the
Mercersburg Borough Council of the Borough of Mercersburg, Franklin County,
Pennsylvania in lawful session, duly assembled.


Joshua Meyers
Council President
Borough of Mercersburg


James Zeger
Honorable Mayor
Borough of Mercersburg

Attest:


Steve Mellott
Borough secretary
Borough of Mercersburg

(SEAL)

