

**BOROUGH OF NEW BRITAIN
BUCKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. 396

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN AMENDING CHAPTER 369 SOLID WASTE AND RECYCLING OF THE NEW BRITAIN BOROUGH CODE OF ORDINANCES; PROVIDING FOR COLLECTION OF MUNICIPAL WASTE AND RECYCLABLE MATERIALS FOR RESIDENTIAL AND BOROUGH-OWNED PROPERTIES THROUGH CONTRACT BETWEEN THE BOROUGH OF NEW BRITAIN AND A COLLECTOR (SINGLE-HAULER COLLECTION); ESTABLISHING AN EXCEPTION TO SINGLE-HAULER COLLECTION FOR CERTAIN HOMEOWNERS' ASSOCIATIONS; REORGANIZING AND CONSOLIDATING EXISTING BOROUGH REGULATIONS RELATING TO THE COLLECTION OF MUNICIPAL WASTE AND RECYCLABLE MATERIALS; REPEALING ANY PRIOR INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough Council of New Britain Borough is empowered by the Borough Code, 8 Pa.C.S. § 101, *et seq.*, and as set forth in the Solid Waste Management Act, 35 P.S. § 6018.101, *et seq.*, and the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101, *et seq.*, to enact ordinances relating to the recycling, transportation, storage, and collection of municipal wastes and/or source-separated recyclable materials.

WHEREAS, the Borough Council of the Borough of New Britain has investigated the appropriateness and feasibility of a contracting with a single-collector for municipal waste and recyclable materials from certain residential and borough-owned properties for several years, and has concluded that it is in the best interest of the Borough of New Britain to establish a single-hauler collection program in the Borough of New Britain for certain residential and Borough-owned properties.

NOW, THEREFORE, the Council Members of the Borough of New Britain do hereby **ENACT** and **ORDAIN** an amendment of the New Britain Borough Code of Ordinances as follows:

SECTION 1. ADOPTION OF AMENDMENTS TO CHAPTER 369 SOLID WASTE AND RECYCLING.

Chapter 369 is hereby repealed in its entirety, and replaced with the reorganized and amended regulations attached hereto as appendix "A".

SECTION 2. SEVERABILITY.

In the event that any section, sentence, clause or word of this ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this ordinance.

SECTION 3. REPEALER.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION 4. Effective date.

This Ordinance shall be effective upon enactment.

ENACTED and ORDAINED this 12th day of March, 2019.

ATTEST:

NEW BRITAIN BOROUGH COUNCIL


Samantha Bryant, Manager


Dr. Robyne Kelemen, President

Reviewed and approved by me this 18th
day of MARCH, 2019.

David Holewinski, Mayor

Chapter 369 SOLID WASTE AND RECYCLING

ARTICLE I Solid Waste

Part 1. General.

§ 369-101. Title.

This article shall be known and referred to as the "Municipal Waste Collection and Transportation Ordinance of New Britain Borough."

§ 369-102. Definitions.

- A. The following words, when used in this article, shall have the meanings ascribed to them in this article, except in those instances where the context clearly indicates otherwise:

ACT 101. The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, 53 P.S. § 4001.101, *et seq.* (Act 1988, P.L. 101, July 28, 1988).

ACT 90. The Pennsylvania Waste Transportation Safety Act of 200, 27 Pa.C.S. § 6201, *et seq.* (P.L. 596, No. 90, June 29, 2002).

ACT 97. The Pennsylvania Solid Waste Management Act of 1980, 35 P.S. § 6018.101, *et seq.* (P.L. 380, No. 97, July 7, 1980).

ASHES. The residue from the burning of wood, coal, coke and other combustible materials for the purposes of heating and cooking. It shall not include the cinders produced in steam-generating plants.

BOROUGH. The Borough of New Britain.

BOROUGH-OWNED PROPERTIES. Properties owned and/or operated by the Borough of New Britain.

BUILDING RUBBLE. The waste material resulting from the construction or demolition of buildings or roads, tree trunks and limbs and other similar material.

COLLECTOR. Any person, firm, partnership, corporation or public agency who is engaged in the collection and/or transportation of municipal waste and/or source-separated recyclable materials.

COMMERCIAL ESTABLISHMENT. Any establishment engaged in a nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, offices, restaurants, shopping centers and theaters.

COUNTY. The County of Bucks, Pennsylvania.

DISPOSAL. The deposition, injection, dumping, spilling, leaking or placing of municipal waste into or on the land or water in a manner that the municipal waste or a constituent of the municipal waste enters the environment, is emitted into the air or is discharged to the waters of this commonwealth. Disposal facilities include, but are not limited to, municipal waste landfills and construction/demolition waste landfills as defined by Act 101, Act 97, and/or PADEP rules and regulations (25 Pa. Code Chapters 75 and 271).

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of foods. It shall not include food-processing wastes from canneries, packing plants, or similar industries, nor large quantities of condemned food products.

INDUSTRIAL ESTABLISHMENT. Any establishment engaged in manufacturing or production activities, including, but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

INSTITUTIONAL ESTABLISHMENT. Any establishment or facility engaged in services, including, but not limited to, hospitals, nursing homes, schools and universities.

LEAF WASTE. Leaves, garden residues, shrubbery and tree trimmings, and similar materials, but not including grass clippings.

LICENSED COLLECTOR or LICENSED WASTE HAULER. A person who has written authorization from the PADEP under Act 90 to collect, haul, transport and dispose of municipal waste.

MUNICIPAL WASTE. Any garbage, refuse, solid waste, 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 "residential or hazardous waste" under Act 97 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant, or air pollution control facility. The term does not include any source-separated recyclable materials.

MUNICIPALITY. Any of the 54 minor civil divisions in Bucks County, Pennsylvania.

MULTIFAMILY RESIDENCE. Any occupied structure having an excess of four dwelling units per structure, including without limitation, apartments, townhouses, condominiums, and cooperatives.

MULTIFAMILY PROPERTIES. All properties used exclusively for a multifamily residence or multifamily residences.

NONRESIDENTIAL PROPERTIES. Properties used for uses other than residences or multifamily residences. The term also shall not include Borough-owned property.

PADEP. The Pennsylvania Department of Environmental Protection.

PERSON. Any natural person, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, federal government or agency, state institution or agency, or any other legal entity recognized by laws as the subject of rights and duties. In any provisions of this article 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 as well as the corporation or other legal entity itself.

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

RECYCLABLE MATERIALS. Aluminum cans, clear glass containers, plastics, newspaper, and such other materials specified by the municipality to be recycled in the municipality's recycling regulations resulting from this article and as revised from time to time as deemed necessary by resolution of Borough Council.

RECYCLING. The collection, separation, recovery and sale or reuse of recyclable materials and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the generation of energy.

REFUSE. Garbage, ashes, rubbish and building rubble as herein defined.

RESIDENCE. Any occupied single or multifamily dwelling having up to four dwelling units per structure from which a municipal or private hauler under contract with the Borough of New Britain collects municipal waste.

RESIDENTIAL PROPERTIES. All properties used exclusively for a residence or residences.

RUBBISH. All waste materials not included in "garbage" and "ashes" except large dead animals, large machinery or vehicles or such other waste materials as are not commonly produced in homes, stores, and institutions.

SCAVENGING. The unauthorized and uncontrolled removal of any material stored or placed at a point for subsequent collection or from a processing or disposal facility.

SOLID WASTE. All refuse and other discarded solid material normally collected by a municipal or private collector.

SOURCE-SEPARATED RECYCLABLE MATERIALS. Recyclable materials, as defined in this section, that are separated from municipal waste at the point of origin or generation for the purpose of recycling.

TRANSPORTATION. The off-site removal of any municipal waste at any time after generation.

- B. For the purpose of this article, the singular shall include the plural and the masculine shall include the feminine and neuter.

§ 369-103. Municipal waste management at all properties.

All persons shall store, collect, haul, transport, process, and dispose of any municipal waste in accordance with the provisions of this article, any applicable municipal ordinance, the Revised County Plan, Act 90, Act 101, the minimum standards and requirements established in Chapter 295 of the PADEP Municipal Waste Management Regulations, any applicable Bucks County Department of Health regulations, and/or any other federal, state, or local regulations.

§ 369-104. Prohibited activities.

- A. It shall be unlawful for any person to collect and/or transport municipal waste from any residential, public, commercial, industrial or institutional establishment within New Britain Borough without first securing written authorization from the PADEP in accordance with the provisions of Act 90.
- B. It shall be unlawful for any person to store, collect and/or transport municipal waste or source-separated recyclable materials from any sources within New Britain Borough in a manner not in accordance with the provisions of this article, any applicable municipal ordinance, the Revised County Plan, Act 90, Act 101, the minimum standards and requirements established in Chapter 285 of the PADEP Municipal Waste Management Regulations, any applicable Bucks County Department of Health regulations, and/or any other federal, state or local regulations.
- C. It shall be unlawful for any person to scavenge any material from any municipal waste or source-separated recyclable materials that are stored or placed for subsequent collection within New Britain Borough without prior approval from the municipality.
- D. The accumulation or burying of refuse on a commercial basis upon any

premises within the Borough is hereby prohibited. It shall further be unlawful for any person to transport refuse into the Borough of New Britain from without its boundaries for the purpose of accumulating, burying, burning or destroying such refuse within the said Borough.

- E. It shall be unlawful for any person to keep in or about any dwelling or upon any land or other premises within the Borough any garbage or refuse of any kind which is obnoxious or offensive by reason of dust or odor, or which attracts insects and vermin, except in covered receptacles. The cover shall be tight and fly-proof.

§ 369-105. Standards for collection and transportation.

- A. All collectors or waste haulers operating within New Britain Borough must comply with the following minimum standards and regulations.
- B. All trucks or other vehicles used for collection and transportation of municipal waste and/or source-separated recyclable materials must comply with the applicable requirements of Act 90, Act 97, Act 101, and PADEP regulations adopted pursuant to Act 97 and Act 101, including the Title 25 Pa. Code Chapter 285, Subchapter B, regulations for the collection and transportation of municipal waste.
- C. All collection vehicles conveying municipal waste and/or source-separated recyclable materials shall be operated and maintained in a manner that will prevent creation of a nuisance or a hazard to public health, safety and welfare.
- D. All collection vehicles conveying putrescible municipal waste shall be watertight and suitably enclosed to prevent leakage, roadside littering, attraction of vectors and the creation of odors and other nuisances.
- E. All collection vehicles conveying nonputrescible municipal waste and/or source-separated recyclable materials shall be capable of being enclosed or covered to prevent litter and other nuisances.
- F. All collection vehicles conveying municipal waste and/or source-separated recyclable materials shall bear signs identifying the name and business address of the person or municipality that owns the vehicle and the specific type of material transported by the vehicle. All such signs shall have lettering which is at least six inches in height as required by Act 101.
- G. All collection vehicles and equipment used by collectors or waste haulers shall be subject to inspection by New Britain Borough or its authorized agents at any reasonable hour without prior notification.

§ 369-106. Licensing and registration requirements.

- A. No person shall collect, or remove any municipal waste from within New Britain Borough without first obtaining written authorization from PADEP in accordance with the provisions of Act 90 and providing a copy of such written authorization to New Britain Borough. This section shall not apply to private individuals (e.g., homeowners) who wish to transport their own household waste to PADEP-approved facilities or their recyclables to appropriate recycling centers, nor to farmers, landscapers or nurserymen, who collect, remove, haul or otherwise, transport agricultural or other organic waste associated with their respective business activities.
- B. For a collector or waste hauler to collect and transport municipal waste within New Britain Borough, a collector or waste hauler shall submit a registration form to New Britain Borough which shall include a copy of their state issued written authorization, and a copy of their Municipal and Residual Waste Transporter Authorization Application (DEP form 2500-PM-BWM0015), along with any of the following information that may be deemed appropriate by the municipality:
 - (1) A list of collection vehicles covered under the written authorization including, as a minimum, the following information for each vehicle: identification information for each vehicle (such as vehicle license number, vehicle registration number, or company identification number); date and location of most recent vehicle inspection; and hauling capacity of the vehicle.
 - (2) The type of municipal waste to be collected and transported.
 - (3) Certificate(s) of insurance evidencing that the waste hauler or collector has valid liability, automobile and workmen's compensation insurance in the minimum amounts established and required by separate resolution of the governing body of the municipality.
 - (4) If they are hauling or collecting source-separated recyclable materials in the municipality, identify the materials being hauled or collected and provide the following information for each vehicle: identification information for each vehicle (such as vehicle license number, vehicle registration number, or company identification number); date and location of most recent vehicle inspection; and hauling capacity of the vehicle.
- C. Any person who fails to satisfy the minimum standards and requirements of this article or who is in violation of any of the provisions of this article may not lawfully collect municipal waste of source-separated material in New Britain Borough.
- D. All licensed collectors and licensed waste haulers shall meet the requirements of Act 90, Act 97, Act 101, the Bucks County Municipal

Waste Management Plan, and all PADEP rules and regulations (25 Pa. Code Chapter 285).

§ 369-107. Reporting requirements.

- A. All licensed collectors and licensed waste haulers and collectors and haulers of source-separated recyclable materials operating within New Britain Borough shall participate in the Bucks County Municipal Recycling Documentation Program. The program will provide a system for documenting the origin of municipal waste and source-separated recyclable material by municipality and the ultimate disposal point of said waste and recyclables. Each licensed collector and licensed waste hauler and collectors and haulers of source-separated recyclable materials operating in New Britain Borough shall prepare and submit an annual report to the municipality on the official Collectors and Haulers Recyclables Documentation Reporting Form. The report shall be submitted by the PADEP-licensed collector or licensed waste hauler and collectors and haulers of source-separated recyclable materials to New Britain Borough by January 31 of each year and include all of the required information pertaining to the preceding calendar year.
- B. All annual reports submitted to the municipality from licensed collectors and licensed waste haulers and collectors and haulers of source-separated recyclable materials shall be combined into a single report and submitted by the municipality on the official Municipal Recyclables Documentation Reporting Form to the county by February 28 of the year following the reporting period.

Part 2. Municipal Collection for Residential and Borough-Owned Properties

§ 369-120. Municipal Waste to be collected by Borough (Single-Hauler).

- A. The Borough, or an authorized person or persons under contract by the Borough, shall collect, transport, process and dispose of all municipal waste generated at residential or Borough-owned properties within the Borough. In the event that the Borough, or an authorized person or persons under contract by the Borough does not collect, transport, process, or dispose of municipal waste, then all persons owning or occupying residential properties shall contract directly with a licensed collector for such services. It shall be a violation of this Chapter for a residential owner or occupier to contract directly with a licensed collector for such services if the Borough is currently contracted with a collector for such services, except as set forth in section 369-121.
- B. All persons owning and occupying residential properties shall make municipal waste available for collection at such times and dates as may be established by regulation.
- C. Preparation for collection of municipal waste for residential properties shall occur in the roll-out containers provided by the collector or Borough and designated for municipal waste. Municipal waste not placed in the containers provided by the collector or Borough shall not be collected, and must be removed by the property owner. Municipal waste containers provided by the collector or Borough shall be used only for the disposal of municipal waste from the residence(s) on the property. In the event that the container provided by the collector or Borough is damaged, altered, lost or destroyed through the negligence of the person to whom the container was assigned, the person shall reimburse the Borough or collector for the cost of a preplacement container. All containers must be kept clean by the customer. Municipal waste shall be placed inside the container with the lid closed. Use of the containers for any purpose other than the disposal of municipal waste from the residence or use of the containers by a person other than the person allocated such container(s) shall be a violation of this Chapter.
- D. Placement of municipal waste and containers. Municipal waste and containers shall be placed at the curb or street line or at an area designed by the Borough, separate from recyclable materials for collection, at such times and dates as may hereinafter be established by regulation. Municipal waste and containers shall not be placed in a location that obstructs a public

sidewalk or which impedes traffic or interferes with clear vision for motorists.

- E. Times for placement and removal of containers. Municipal waste and containers shall be stored on the owner's property and shall not be placed at the curb or street line, or at an area otherwise designated by the Borough, for collection before 6:00 pm on the evening preceding a scheduled collection day. Empty containers shall be removed from the curb by 10:00 pm on the day of collection. Containers shall not be kept at the curb or street line or at an area otherwise designated by the Borough between scheduled collections, and they shall be stored on the owner's property in such location to be unseen from public streets or roads or from the front yards of immediate neighboring property.
- F. Containers shall be placed in a manner so they are easily accessible to the collection vehicle.

§ 369-121. Exception to Single-Hauler Collection (Homeowners' Associations).

- A. A homeowners' association within the Borough, and the residences comprising the association, with an existing contract with a collector on the effective date of this article for the collection of municipal waste may continue to use the services of that collector for the duration of the homeowners' association's existing contract. At the end of the homeowners' association's existing contract, the homeowners' association, and the residences comprising the association, shall then use the Borough-contracted collector pursuant to this article, unless the homeowners' association enters into a new contract and/or extends a contract with a collector and notifies the Borough of its intent to seek an exception pursuant to section 369-121.C.
- B. A homeowners' association seeking an exception under this section shall, within thirty (30) days of the effective date of this article, notify the Borough in writing of (1) its request to seek the exception under this section; (2) the name, address, and contact information for the collector; and (3) the end date of its existing collector contract.
- C. If the homeowners' association intends to continue with a private contractor at the end date of its existing contract identified pursuant to section 369-121.B, the homeowners' association shall renew its request for an exception by notifying the Borough, in writing, no less than sixty (60) days in advance of the end date of its existing contract. The written notification shall (1) state that the homeowners' association seeks an exception pursuant to this

section; (2) the name, address, and contact information for the collector; and (3) the end date of the new contract. Homeowners' associations shall repeat this renewal process sixty (60) days in advance of the end of each contract term.

- D. A Homeowners' association no longer intending to continue with a private contractor shall notify the Borough in writing no less than sixty (60) days in advance of the end date of their existing contract identified pursuant to section 369-121.B or 369-121.C as applicable.
- E. A homeowners' association failing to provide the notification pursuant to section 369-121.B or section 369-121.C shall be subject to the requirements of this article.

Part 3. Municipal Waste Collection for Multifamily Residential and Non-Residential Properties.

§ 36-130. Municipal waste management at multifamily residential and non-residential properties.

- A. All persons owning or managing multifamily residential and non-residential properties shall establish, implement, and manage a program for the storage, collection, transportation, processing and disposal of municipal waste generated at their properties in compliance with part 1 and part 3 of this article.
- B. Frequency of collection. Municipal waste for all multifamily residential and non-residential properties shall be collected as often as required by volume and environmental conditions, but not less than once per week.

§ 369-131. License required to engage in business of transporting municipal waste.

No person shall engage in the business of collecting and transporting municipal waste within the Borough for multifamily residential or non-residential properties except when licensed to do so in accordance with §§ 369-132 through 369-136 of this part.

§ 369-132. License issued on calendar-year basis; fee.

Licenses for haulers shall be issued for the calendar year, upon payment by each hauler of a fee as provided in the Borough Fee Schedule.

§ 369-133. Liability insurance required.

Before the Secretary shall issue any license, the applicant shall file with him proof of public liability insurance coverage of all vehicles to be used in the Borough pursuant to such license, in the amount of \$10,000 for property damage for one claimant and \$20,000 for one accident, and \$100,000/\$300,000 bodily injury liability.

§ 369-134. Approval of application to collect refuse; issuance of license.

No person shall engage in the commercial collection of refuse produced upon premises in the Borough not owned or occupied by him until his application shall have been approved by Borough Council and a license issued by the same.

§ 369-135. Application for license.

Applications for a refuse collector's license shall be in the form prescribed by Council and shall contain at least the following information:

- A. Applicant's name, address and date of application.
- B. Name and address of owner of collection vehicle.
- C. Make, serial number and Pennsylvania license number of each collection vehicle.
- D. Proposed monthly rate and collection schedules.
- E. Statement that collector will deposit refuse only in a state- or county-approved landfill, incinerator or facility.

§ 369-136. Rate and collection schedules subject to approval by Council.

Before approving the issuance of a license to any applicant, Council shall examine the rate and collection schedules filed with the application. Council shall refuse to approve a license to any applicant whose rates are unreasonable or excessive or whose collection schedule is inadequate. When a license has been issued and the collector's rates approved by Council, said rates shall not thereafter be changed during the calendar year for which the license is issued without the approval of Council. The schedule of rates shall be based upon collection of refuse from a point at the street line. The collector shall have the right to make an additional reasonable charge for collection from points beyond the street line or from within a building.

§ 369-137. Suspension or revocation of license.

Council shall have the right, at any time, and without refund of any part of the license fee, to suspend or revoke the license of any collector for any of the following causes:

- A. False or misleading statements in the application for a license.
- B. Charging those to whom service is rendered in excess of the fees contained in the approved rate schedule or failing to make collections in accordance with approved route schedules. Lapse or cancellation of insurance coverage.
- C. Collecting or transporting refuse in a careless or negligent manner resulting in dirt, odor or any unsanitary condition.
- D. Failure to deposit refuse in a state- or county-approved landfill, incinerator or facility.
- E. A violation or violations of any part of this article or other ordinances of the Borough.

Part 4. Violations and Penalties

§ 369-140. Violations and penalties.

Any person who shall violate any provisions of this article, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense. For purposes of this section, the doing of any act or thing prohibited by any provision of this article, or the failure to do any act or thing as to which any provision of this article creates any affirmative duty, shall constitute a violation of this article punishable as herein stated. Licensed collectors and licensed waste haulers who shall violate any provision of this article may be reported to the PADEP by New Britain Borough and may be subject to the revocation of the state authorization to transport municipal waste, as described in Act 90.

§ 369-141. Injunctive powers.

New Britain Borough may petition the Bucks County Court of Common Pleas for an injunction, either mandatory or prohibitive, in order to enforce any of the provisions of this article.

ARTICLE II

Residential Recycling and Recycling at Borough-Owned Properties

§ 369-201. Title.

The short title of this article, together with Article III of this chapter, shall collectively be referred to as the "Recycling Ordinance of New Britain Borough".

§ 369-202. Definitions.

As used in this article, the following terms shall have the meaning indicated:

ALUMINUM CANS. Empty all-aluminum beverage and food containers.

BIMETAL CONTAINERS. Empty food or beverage containers consisting of ferrous sides and bottom and an aluminum top.

FERROUS CONTAINERS. Empty steel or tin food or beverage containers.

GLASS CONTAINERS. Bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass, plate glass, blue glass and porcelain and ceramic products.

MAGAZINES and PERIODICALS. Printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded, however, are all other paper products of any nature whatsoever.

NEWSPAPERS. 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, however, are newspapers which have been soiled.

PERSON(S). Owners, lessees and occupants of residences.

PLASTICS. Empty plastic food and beverage containers; No. 1 PET plastics; No. 2 HDPE plastics; and additional types of plastic as specified in the recycling regulations, which may stipulate additional specific types of plastic which must be recycled.

RECYCLABLE MATERIALS. Aluminum cans, clear glass containers, plastics, newspaper, and such other materials specified by the municipality to be recycled in the municipality's recycling regulations resulting from this article and as revised from time to time as deemed necessary by resolution of Borough Council.

RESIDENCE. Any occupied single or multifamily dwelling having up to four dwelling units per structure from which a municipal or private hauler collects

municipal waste and recyclable materials.

SOLID WASTE. All refuse (garbage and rubbish) and other discarded solid material normally collected by municipal or private hauler.

SOURCE-SEPARATED RECYCLABLE MATERIALS. Recyclable materials, as defined in this section, that are separated from municipal waste at the point of origin or generation for the purpose of recycling.

§ 369-203. Establishment of residential recycling program for residences up to four dwelling units.

- A. There is hereby established in the Borough of New Britain a program for the mandatory separation of recyclable materials from municipal waste by all residences with up to four dwelling units (a "residence" as defined in § 369-202 of this article) within the Borough of New Britain, hereinafter referred to as "the municipality."
- B. The Borough, or an authorized person or person under contract by the Borough, shall collect, transport, process and dispose of all source-separated recyclable materials generated at residential or Borough-owned properties within the Borough. In the event that the Borough, or an authorized person or persons under contract by the Borough does not collect, transport, process, or dispose of municipal waste, then all persons owning or occupying residential properties shall contract directly with a licensed collector for such services. It shall be a violation of this Chapter for a residential owner or occupier to contract directly with a licensed collector for such services if the Borough is currently contracted with a collector for such services, except as set forth in section H of this part.
- C. All persons owning and occupying residential properties shall separate recyclable materials from municipal waste and shall make recyclable materials available for collection at such times and dates as may be established by regulation.
- D. Preparation for collection of recyclable materials for residential properties shall occur in the roll-out containers provided by the collector or Borough and designated for recycling. Recyclable materials shall be placed in the containers provided by the collector or Borough. Recyclable materials containers provided by the collector or Borough shall be used only for the disposal of recyclable materials from the residence(s) on the property. In the event that the container provided by the collector or Borough is damaged, altered, lost or destroyed through the negligence of the person to whom the container was assigned, the person shall reimburse the Borough or collector for the cost of a replacement container. All containers must be kept clean by the customer. Recyclable materials shall be placed inside the container with the lid closed. Use of the containers for any purpose other

than the disposal of recyclable materials from the residence or use of the containers by a person other than the person allocated such container(s) shall be a violation of this article.

- E. Placement of recyclable materials and containers. Recyclable materials and containers shall be placed at the curb or street line or at an area designed by the Borough, separate from municipal waste for collection, at such times and dates as may hereinafter be established by regulation. Recyclable materials and containers shall not be placed in a location that obstructs a public sidewalk or which impedes traffic or interferes with clear vision for motorists.
- F. Times for placement and removal of containers. Recyclable materials and containers shall be stored on the owner's property and shall not be placed at the curb or street line, or at an area otherwise designated by the Borough, for collection before 6:00 pm on the evening preceding a scheduled collection day. Empty containers shall be removed from the curb by 10:00 pm on the day of collection. Containers shall not be kept at the curb or street line or at an area otherwise designated by the Borough between scheduled collections, and they shall be stored on the owner's property in such location to be unseen from public streets or roads or from the front yards of immediate neighboring property.
- G. Containers shall be placed in a manner so they are easily accessible to the collection vehicle.
- H. Exceptions to use of Borough-contracted collector.
 - 1. A homeowners' association within the Borough, and the residences comprising the association, with an existing contract with a collector on the effective date of this article for the collection of recyclable materials may continue to use the services of that collector for the duration of the homeowners' association's existing contract. At the end of the homeowners' association's existing contract, the homeowners' association, and the residences comprising the association, shall then use the Borough-contracted collector pursuant to this article, unless the homeowners' association enters into a new contract and/or extends a contract with a collector and notifies the Borough of its intent to seek an exception pursuant to section 369-203.H.3.
 - 2. A homeowners' association seeking an exception under this section shall, within thirty (30) days of the effective date of this article, notify the Borough in writing of (1) its request to seek the exception under this section; (2) the name, address, and contact information for the collector; and (3) the end date of its existing collector contract.

3. If the homeowners' association intends to continue with a private contractor at the end date of its existing contract identified pursuant to section 369-203.H.2, the homeowners' association shall renew its request for an exception by notifying the Borough, in writing, no less than sixty (60) days in advance of the end date of its existing contract. The written notification shall (1) state that the homeowners' association seeks an exception pursuant to this section; (2) the name, address, and contact information for the collector; and (3) the end date of the new contract. Homeowners' associations shall repeat this renewal process sixty (60) days in advance of the end of each contract term.
4. A homeowners' association no longer intending to continue with a private contractor shall notify the Borough in writing no less than sixty (60) days in advance of the end date of their existing contract identified pursuant to section 369-203.H.2 or 369-203.H.3 as applicable.
5. A homeowners' association failing to provide the notification pursuant to section 369-203.H.2 and/or section 369-203.H.3 shall be subject to the requirements of this article.

§ 369-204. Collection by unauthorized person(s).

It shall be a violation of this article for any person(s), unauthorized by the municipality, to collect or pick up or cause to be collected or picked up any such recyclable material. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

§ 369-205. Enforcement and administration.

The municipality is authorized and directed to enforce this article. The same is hereby authorized and directed to establish and promulgate reasonable regulations as to the manner, days and times for the collection of recyclable materials in accordance with the terms hereof and any other matters required to implement this article. The municipality may change, modify, repeal or amend any portion of said rules and regulations at any time.

§ 369-206. Alternative collection of recyclable material.

Any person may donate or sell recyclable materials to individuals or organizations authorized by the municipality in its recycling regulations. These materials must either be delivered to the individual's or organization's site or they may be placed at the curb for collection by said individual or organization on days not indicated as recyclable material collection days by the municipality. Said individuals or

organizations may not collect recyclable materials on or immediately preceding (within 24 hours) a regularly scheduled curbside collection day.

§ 369-207. Violations and penalties.

- A. Any action by any person, firm, corporation or other entity which violates or does not comply with any provision of this article or any regulation thereof, shall be punishable by a fine not to exceed \$10 upon a first conviction; \$25 upon a second conviction; and \$50 upon a third or subsequent conviction.
- B. The above fines shall not be applicable to a conviction for § 369-204 hereof which shall be punishable by a fine not to exceed \$300.

ARTICLE III

Multifamily and Nonresidential Recycling

§ 369-301. Title.

The short title of this article, together with Article II of this chapter, shall collectively be referred to as the "Recycling Ordinance of New Britain Borough".

§ 369-302. Definitions.

As used in this article, the following terms shall have the meaning indicated:

ALUMINUM CANS. Empty all-aluminum beverage and food containers.

BIMETAL CONTAINERS. Empty food or beverage containers consisting of ferrous sides and bottom and an aluminum top.

COMMERCIAL ESTABLISHMENT. An establishment engaged in nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.

COMMUNITY ACTIVITIES. Events that are sponsored in whole or in part by a mandated municipality, or conducted within a mandated municipality and sponsored privately, which include but are not limited to fairs, bazaars, socials, picnics and organized sporting events that will be attended by 200 or more individuals per day.

COMPOSTING. A controlled microbial degradation of organic waste to produce a relatively nuisance-free product of potential value as a soil conditioner.

CORRUGATED PAPER. Any structural paper material with an inner core shaped in rigid parallel furrows and ridges.

FERROUS CONTAINERS. Empty steel or tin food or beverage containers.

GLASS CONTAINERS. Bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass, plate glass, blue glass and porcelain and ceramic products.

HIGH-GRADE OFFICE PAPER. Any bond, copier, letterhead or mimeograph paper typically sold as "white ledger" paper and computer paper.

INDUSTRIAL ESTABLISHMENT. Any establishment engaged in manufacturing or processing, including but not limited to factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

INSTITUTIONAL ESTABLISHMENT. Any establishment or facility engaged in services, including but not limited to hospitals, nursing homes, orphanages,

schools and universities.

LEAF WASTE. Leaves, garden residues, shrubbery and tree trimmings and similar materials, but not including grass clippings.

MAGAZINES AND PERIODICALS. Printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded, however, are all other paper products of any nature whatsoever.

MULTIFAMILY RESIDENCE. Any occupied residential structure having an excess of four dwelling units per structure, including without limitation apartments, townhouses, condominiums and cooperatives.

MUNICIPAL ESTABLISHMENT. Any facility or building owned or operated by a local government or county government, local government or county government authority, state government or agency or federal government or agency.

MUNICIPAL WASTE. Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of "residual or hazardous waste" 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.

NEWSPAPERS. 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, however, are newspapers which have been soiled.

PERSON. Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this article 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.

PLASTICS. Empty plastic food and beverage containers; No. 1 PET plastics; No. 2 HDPE plastics; and additional types of plastic as specified in the recycling regulations, which may stipulate additional specific types of plastic which must be recycled.

PRIVATE COLLECTOR/HAULER. A person providing collection, hauling and disposal services for municipal waste and/or recyclable materials on a private contract basis.

RECYCLABLE MATERIALS. Aluminum cans, clear glass containers, plastics, newspaper, and such other materials specified by the municipality to be recycled in the municipality's recycling regulations resulting from this article and as revised from time to time as deemed necessary by resolution of Borough Council.

RECYCLING. The collection, separation, recovery and sale or reuse of metals, glass, paper, plastics and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

RESIDENCE. Any occupied single or multifamily dwelling having up to four dwelling units per structure from which a municipal or private hauler collects municipal waste and recyclable materials.

§ 369-303. Establishment of recycling program for multifamily and nonresidential uses.

There is hereby established a program requiring the separation from municipal waste of recyclable materials generated at multifamily residences, commercial, municipal and institutional establishments, and community activities.

§ 369-304. Separation of recyclables and placement for disposal.

- A. Multifamily residences. Recyclable materials generated at multifamily residences shall be placed in appropriate containers, separate from municipal waste. Collection receptacles of sufficient size for recyclable materials shall be placed in easily accessible locations, such as storage areas and common areas, or areas where municipal waste is presently collected. Recyclable materials shall be stored in accordance with State Fire Code regulations and all federal, state, and local health and safety laws and ordinances, until collection. Recyclable materials shall be collected at least once per month.
- B. Commercial, municipal and institutional establishments and community activities. The owners/operators of commercial, municipal or institutional establishments or sponsor/organizers of community activities shall separate designated recyclable materials from municipal waste. Recyclable materials shall be placed in appropriate containers. Collection receptacles shall be placed: in all buildings and on all floors and in all wings thereof; in each office; in all areas where food is served or consumed, including, without limitation, cafeterias, lunchrooms, fast-food areas and vending machine rooms; where a municipal waste receptacle is provided on the exterior of a building, or on the interior of a building for use by the general public, adjacent to each municipal waste receptacle; and in such additional places as may be required by the recycling regulations. Recyclable materials shall be stored in accordance with State Fire Code regulations and all federal, state and local health and safety

laws and ordinances until collection. Recyclable materials shall be collected at least once per month.

- (1) Designated recyclable materials for commercial, municipal or institutional establishments and community activities shall include, in addition to those materials identified in the definition of "recyclable materials" in § 369-302 of this article, high-grade office paper and corrugated paper and such additional materials as set by resolution of Borough Council.
- (2) Exemption. Owners/operators of commercial, municipal or institutional establishments may obtain an exemption from the requirements of this article if those persons or establishments otherwise provide for recycling of recyclable materials, high-grade office paper, corrugated paper and any other materials that such establishments are required to recycle. To qualify for an exemption under this subsection, commercial, institutional and municipal establishments must provide written documentation on or before January 20 for the previous calendar year. This documentation may be in the form of one of the following:
 - (a) Copies of weight receipts or statements which consolidate such information.
 - (b) A report from the provider of recycling collection services which identifies the amount of each material collected and marketed. The type and weight of recyclables generated by an individual establishment may be approximated based on a representative sample of its source-separated materials. Where recyclables from several establishments are collected in the same vehicle, an individual establishment's contribution to the load may be apportioned. Only the weight of materials marketed for recycling purposes can be credited to an establishment.
 - (c) A report from the provider of waste collection services that identifies the type and weight of each recyclable material collected and marketed in cases where recyclables are commingled with the establishment's waste. The type and weight of recyclables generated by an individual establishment may be approximated based on a representative sample of its waste. Where materials from several establishments are collected in the same vehicle, an individual establishment's contribution to the load may be apportioned. Only the weight of materials marketed for recycling purposes can be credited to an establishment.

§ 369-305. Private collectors/haulers.

- A. All municipal waste and recyclable materials accumulated at residences, multifamily residences, commercial, institutional and municipal establishments and at community activities shall be collected, conveyed and disposed of only by private collectors/haulers licensed by the municipality pursuant to part 1 and part 3 of this chapter. When approved by the municipality, commercial, institutional or municipal establishments may collect, convey and dispose of municipal waste and/or recyclable material generated by said establishments.
- B. All licensed private collectors/haulers shall file with the municipality an annual report due January 20 of all municipal waste and recyclable material collection and separation activities performed by the licensee within the municipality during the previous calendar year at each commercial, institutional or municipal establishment and community activity providing the following information:
 - (1) Type and amount of compostable materials collected within the reporting period.
 - (2) Type and amount of recyclable material collected within the reporting period.
 - (3) Type and amount of all municipal waste, compostable and recyclable materials collected within the reporting period.
 - (4) Name and address of private collector.

§ 369-306. Alternative collection of material for recycling.

Any person may donate or sell recyclable materials to individuals or organizations that are licensed or authorized by the municipality in its recycling regulations. These materials must be delivered to the individual's or organization's site or they may be placed at the curb for collection by said individual or organization on days not indicated as recyclable material collection days by the municipality. Said individuals or organizations may not collect recyclable materials on or immediately preceding (within 24 hours) a regularly scheduled curbside collection day.

§ 369-307. When effective; effect on existing agreements.

This article shall take effect immediately and all regulations established under Article II of this chapter and all agreements with public or private haulers to collect recyclable materials shall remain in full force and effect.

§ 369-308. Violations and penalties.

- A. Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this article, or of any regulation promulgated pursuant hereto, pertaining to the separation, storage, collection, transportation or disposal of recyclable materials or municipal waste, shall upon conviction thereof, be subject to payment of court costs and a fine not to exceed \$300 per violation per day. No prosecutions hereunder shall be instituted for offenses less than 90 days from the effective date of this article.
- B. Notwithstanding the foregoing, any person who violates this article by collecting or picking up, or causing to be collected or picked up, without the appropriate municipal license, recyclable material, shall upon conviction thereof, be subject to payment of court costs and a fine not to exceed \$300 per violation per day.
- C. Owners, landlords and agents for owners or landlords who comply with this article shall not be liable for the noncompliance of tenants/ occupants of their property.