

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 294

(Duly Adopted December 9, 1992)

AN ORDINANCE AMENDING AND RESTATING CHAPTER 71 OF THE CODE OF THE BOROUGH OF ALBURTIS, RELATING TO THE ADMINISTRATION OF A MUNICIPAL COLLECTION AND DISPOSAL SERVICE FOR SOLID MUNICIPAL WASTE (INCLUDING RIFF-RAFF) AND CERTAIN RECYCLABLE MATERIALS; REQUIRING THE MAINTENANCE OF SANITARY CONDITIONS ON PUBLIC AND PRIVATE PREMISES WITHIN THE BOROUGH OF ALBURTIS; REGULATING THE PLACEMENT AND ACCUMULATION OF REFUSE ON PUBLIC AND PRIVATE PROPERTY WITHIN THE BOROUGH OF ALBURTIS; AUTHORIZING THE BOROUGH COUNCIL TO PROMULGATE ADDITIONAL REGULATIONS RELATING TO SOLID MUNICIPAL WASTE AND RECYCLING; PROVIDING FOR THE IMPOSITION AND COLLECTION OF FEES BY THE BOROUGH FOR THE COLLECTION AND DISPOSAL OF SOLID MUNICIPAL WASTE AND CERTAIN RECYCLABLE MATERIALS; AND PROVIDING PENALTIES FOR THE VIOLATION OF CHAPTER 71 OF THE CODE OF THE BOROUGH OF ALBURTIS, AS AMENDED BY THIS ORDINANCE.

Be it **ORDAINED and ENACTED** by the Borough Council of the Borough of Alburtis, Lehigh County, Pennsylvania, that Chapter 71 of the Code of the Borough of Alburtis shall be amended and restated in its entirety to hereafter read as follows:

**CHAPTER 71 — MUNICIPAL SOLID WASTE, RECYCLABLES, AND
OTHER REFUSE**

§ 71-1 Definitions.

The following words, when used in this Chapter, shall have the meanings ascribed to them in this Section, except in those circumstances where the context clearly indicates otherwise:

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A. Borough — The Borough of Alburdis, Lehigh County, Pennsylvania. Depending on the context, the term shall either refer to the geographic area included within the boundaries of the Borough, or the municipal corporation.

B. Collectible municipal waste — All municipal waste except:

- (1) Unacceptable waste; and
- (2) Source-separated recyclable materials, whether separated for recycling under a program operated or contracted by the Borough or under any other recycling program.

C. Collectible recyclable materials — Any recyclable materials included in a voluntary or mandatory recycling program established by the Borough and operated by the Borough or its contractor.

D. Construction and demolition debris — Wastes generated by construction or demolition operations, which may include, without limitation, concrete, dirt, stones, bricks, plaster, wood, shingles, and pipe.

E. Contractor — The person serving, at any given time, as the contractor of the Borough for the collection, transportation, and disposition of collectible municipal waste and/or other refuse under the provisions of this Chapter.

F. Hazardous waste — Any material or substance which, by reason of its quantity, concentration, composition, or characteristics, is:

(1) "hazardous waste" within the meaning of the Solid Waste Management Act, 35 PA. STAT. ANN. § 6018.101, *et seq.*;

(2) toxic or hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. § 6901, *et seq.*, and the regulations thereunder;

(3) material regulated by the Toxic Substance Control Act, 15 U.S.C. § 2601, *et seq.*, and the regulations thereunder; or

(4) special nuclear by-products material within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. § 2011, *et seq.*, and the regulations thereunder.

G. Household hazardous waste — Any waste that would be considered hazardous under the Solid Waste Management Act, 35 PA. STAT. ANN. § 6018.101, *et seq.*, but for the fact that it is produced in quantities smaller than those regulated under that Act and is generated by persons not otherwise covered by that Act (*e.g.*, household paints, antifreeze, bleach, cleaners, polishes, insecticides, pesticides, disinfectants, chemicals, and batteries).

H. Infectious or chemotherapeutic waste — Any waste considered as “infectious” or “chemotherapeutic” waste under the Act of July 13, 1988, No. 93, 1988 Pa. Laws 525, as amended, 35 PA. STAT. ANN. § 6019.1, *et seq.*

I. Leaf waste — Leaves, garden residues, shrubbery, and tree trimmings, and similar material, but not including grass clippings.

J. Municipal waste — Any garbage, refuse, and other material, including solid, liquid, semisolid, or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments, or from community activities; any industrial lunchroom or office waste; and any sludge (other than sludge considered residual waste or hazardous waste) from a municipal, commercial, or institutional water supply treatment plant, waste water treatment plant, or air pollution control facility.

K. Person — A natural person, firm, copartnership, association, church, school, institution, or corporation.

L. Recyclable materials — Any materials whose original use has been completed, and which would otherwise be discarded and disposed of or processed as municipal waste, but which can be processed or treated to create or recover reusable materials that can be sold to or reused by a manufacturer or other person as a substitute for or a supplement to virgin raw materials. Recyclable materials include, without limitation, newsprint, corrugated paper, high grade office paper, plastics, leaf wastes, clear glass, colored glass, steel and bimetal cans, aluminum, and grass clippings.

M. Refuse — Municipal waste, residual waste, hazardous waste, and source-separated recyclable materials. However, leaf waste and/or grass

clippings which are being composted or used for mulch shall not be considered "refuse".

N. Residual waste — Any garbage, refuse, other discarded material, or other waste, including solid, liquid, semisolid, or contained gaseous materials, resulting from industrial, mining, or agricultural operations, and any sludge from an industrial, mining, or agricultural water supply treatment facility, waste water treatment facility, or air pollution control facility, provided that it is not hazardous. The term "residual waste" shall not include coal refuse as defined in the Coal Refuse Disposal Control Act, 52 PA. STAT. ANN. § 30.51, *et seq.* "Residual waste" shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Clean Streams Law, 35 PA. STAT. ANN. § 691.1, *et seq.*

O. Riff-raff — All collectible municipal waste which is too large for collection in a twenty-one-gallon container, including, without limitation, Christmas trees, furniture, bedding, tanks, large appliances (such as televisions, stoves, refrigerators, washers, and dryers), large dead animals, tree trimmings, etc.

P. Source-separated recyclable materials — Recyclable materials that are separated from municipal waste at the point of origin for the purpose of recycling.

Q. Special handling waste — Any municipal waste for which any governmental agency or unit having appropriate jurisdiction requires special approval (other than that generally required for municipal waste) prior to disposal in a permitted municipal waste disposal facility, including, without limitation, asbestos, sludge, and infectious or chemotherapeutic waste.

R. Unacceptable waste — Except for trace amounts normally found in household or commercial waste:

- (1) Hazardous waste;
- (2) Residual waste;

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- (3) Special handling waste;
- (4) Infectious or chemotherapeutic waste, or any wearing apparel, bedding or refuse from premises where highly infectious or contagious diseases have prevailed;
- (5) Used motor oil;
- (6) Used lead acid batteries;
- (7) Used tires, *but only* if the Borough Council shall adopt an Ordinance or Resolution finding that there is a reasonably accessible on-going program for recycling used tires generated in the Borough *and only* during the period that such an Ordinance or Resolution shall remain in force;
- (8) Construction and demolition debris;
- (9) Free liquids, or liquids which are likely to be released from their containers during ordinary handling;
- (10) Leaf waste;
- (11) Grass clippings;
- (12) Newsprint;
- (13) Collectible recyclable materials (other than those described in paragraphs (10), (11), and (12)), *but only* with respect to those materials which the Borough Council, by Ordinance or Resolution, **requires** to be recycled (as opposed to those materials included in a purely voluntary recycling program operated by the Borough or its contractor);
- (14) Household hazardous waste (other than that described in other paragraphs of this subsection R), *but only* with respect to those wastes included in a household hazardous waste collection program established by the County of Lehigh, or within Lehigh County, which may be utilized by residents of the Borough, *and only* with respect to those household hazardous wastes designated as "unacceptable waste" by Ordinance or Resolution of Borough Council;
- (15) Any highly flammable or explosive materials;
- (16) Any material that, by reason of its composition, characteristics, quantity, or concentration, is ineligible for disposal at the disposal

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facility(ies) designated to receive municipal waste generated within the Borough under the Lehigh County Solid Waste Management Plan (or, if there are no such facilities, or if the provisions of the Lehigh County Solid Waste Management Plan designating disposal facilities are determined to be invalid or unenforceable, at the disposal facility(ies) selected by the Borough and/or the Contractor), pursuant to:

(a) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, and the regulations thereunder;

(b) the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136, *et seq.*, and the regulations thereunder;

(c) the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, and the regulations thereunder;

(d) the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, and the regulations thereunder;

(e) the Hazardous Sites Cleanup Act, 35 PA. STAT. ANN. § 6020.101, *et seq.*, and the regulations thereunder; or

(f) any other applicable statute, regulation, determination, order, ruling, ordinance, resolution, plan, or permit; and

(17) Any other material that presents an endangerment to the disposal facility described in paragraph (16), the employees of the Borough or the Contractor, or to the public health or safety.

§ 71-2 Collection and Disposition of Collectable Municipal Waste.

A. Municipal Collection Program. Except as provided in subsection E, all collectible municipal waste generated or present within the Borough shall be collected, transported, and disposed of by the Borough or its Contractor. All persons within the Borough of Alburdis shall dispose of collectible municipal waste by the municipal collection service only.

B. Receptacles. All collectible municipal waste placed for collection by the Borough or its Contractor, other than riff-raff, shall be

placed in bags, garbage cans, or other receptacles, which comply with all applicable regulations promulgated hereunder (and which shall not, in any event, be in excess of thirty (30) gallon capacity). Without limitation, such regulations may include requirements relating to size, weight, materials, and closure. In addition, Borough Council may require, by Resolution, that any or all collectible municipal waste, other than riff-raff, be placed for collection in special bags or other receptacles sold or supplied by the Borough or its agents, and/or that any or all receptacles and/or riff-raff placed for the collection of municipal waste bear a special tag, sticker, or similar device, sold or supplied by the Borough or its agents. These special receptacles or devices may be required to assist in implementing a "per bag" fee program, to accommodate any handling, collection, transportation, or disposition concerns, to reduce the costs of collection, transportation, or disposition, or to accomplish any other proper purpose related to the municipal waste collection program.

C. Amount of Waste to be Collected. Borough Council may establish, by Resolution, the maximum amount and/or types of collectible municipal waste which will be collected by the Borough or its Contractor from any given property, over the course of a year and/or at any particular collection, in consideration for the payment of any specific fee established under Section 71-9(A). The Borough or its Contractor will collect all of the collectible municipal waste generated or present on that property upon the payment of proper fees, but may refuse, at any time, to collect any collectible municipal waste which is in excess of the maximum amount for which a fee has been paid and/or of a different type than that for which a fee has been paid.

D. Refusal to Collect Waste. The Borough or its Contractor may refuse, at any time, to collect any collectible municipal waste if that waste is presented in such a way as to violate any of the provisions of this Chapter and/or the regulations promulgated hereunder. The refusal of the Borough or its Contractor to collect any collectible municipal waste from any particular property at any particular time, whether under this subsection D or under subsection C, shall in no manner relieve the property owner or the person generating the waste from his/her/its obligations under this Chapter, including, without limitation, his/her/its obligations to dispose of all

collectible municipal waste through the municipal collection system, to not allow any accumulations of refuse other than for the purpose of collection in a timely manner, and to not permit or engage in any actions or inactions prohibited under Section 71-8.

E. Permits for Private Disposal of Collectable Municipal Waste. If a property owner has compelling reasons (other than purely financial) for desiring to dispose of any or all of his/her/its collectible municipal waste by a means other than the municipal collection system, he/she/it may apply for a permit from Borough Council for this privilege. Borough Council shall only grant such a permit if it finds that the reasons advanced are truly compelling and that the property owner's proposed method of collection, transportation, and disposal is acceptable, considering the Borough's obligations and potential liability with respect to municipal waste under applicable state and/or federal law. At a minimum, the property owner shall provide proof to Borough Council that all necessary licenses have been obtained and that capacity is available for the property owner in a permitted disposal facility. The decision to grant or deny a permit under this subsection E shall be purely discretionary on the part of Borough Council, and may be conditioned in any relevant manner. No permit shall be for a period in excess of one (1) year, and all permits may be revoked or suspended at any time for cause. (The Borough Secretary is hereby authorized to suspend any such permit for cause in exigent circumstances until the next regularly scheduled meeting of Borough Council.) Borough Council may, by Resolution, establish an application fee and/or a permit fee to cover the Borough's reasonable expenses in reviewing permit applications and/or administering permits under this subsection E. All or part of the fees established under Section 71-9 *may* be waived by Borough Council, in its absolute discretion, as one of the terms of the permit, *but only* if and to the extent that the costs to the Borough of operating the municipal collection system are expected to be reduced as a result of the diversion of collectible municipal waste in accordance with the permit.

F. Disposal Facilities. All collectible municipal waste generated, collected, and transported from within the jurisdictional limits of the Borough shall be disposed of in accordance with all applicable provisions of law, including the then-applicable Solid Waste Management Plan of the

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County of Lehigh. (If any person believes that any provision of law, regulation, or the Solid Waste Management Plan is unenforceable, he shall nonetheless comply with such provision until a final order is entered declaring the provision unenforceable, except during any period for which temporary relief from the enforcement of the provision is granted by a court of appropriate jurisdiction.) No such collectible municipal waste may be transported to or disposed of in any disposal facility without the prior written approval of that disposal facility by the Borough (which approval will not be unreasonably withheld).

§ 71-3 Collection and Disposition of Collectable Recyclable Materials.

A. Newsprint. Newsprint is hereby declared to be a mandatory collectible recyclable material.

B. Leaf waste. Leaf waste is hereby declared to be a mandatory collectible recyclable material. The Borough encourages composting of leaf waste by property owners to remove leaf waste from both the waste stream and recycling collection.

C. Grass clippings. Grass clippings are hereby declared to be a mandatory collectible recyclable material. The Borough encourages composting and/or mulching of grass clippings by property owners to remove grass clippings from both the waste stream and recycling collection.

D. Other mandatory collectible recyclable materials. Borough Council may, from time to time, by Ordinance or Resolution, designate other recyclable materials as mandatory collectible recyclable materials. Borough Council may also designate certain recyclable materials as mandatory collectible recyclable materials for some types of property uses in the Borough (*e.g.*, commercial, municipal, institutional, industrial, community activities, or residential) but not others. (For example, high grade office paper and corrugated paper may be designated as mandatory collectible recyclable materials with respect to commercial, municipal, institutional, and industrial uses, but not residential uses.)

E. Voluntary collectible recyclable materials. Borough Council may, from time to time, by Ordinance or Resolution, designate other recyclable materials as voluntary collectible recyclable materials. Borough Council may also designate certain recyclable materials as voluntary collectible recyclable materials for some types of property uses in the Borough (*e.g.*, commercial, municipal, institutional, industrial, community activities, or residential) but not others. (For example, high grade office paper and corrugated paper may be designated as voluntary collectible recyclable materials with respect to commercial, municipal, institutional, and industrial uses, but not residential uses.) Until changed by Ordinance or Resolution, the following materials are voluntary collectible recyclable materials which will be collected by the Borough or its Contractor: clear glass, colored glass, and aluminum. The Borough anticipates designating high grade office paper and corrugated paper as voluntary collectible recyclable materials with respect to commercial, municipal, institutional, and industrial uses and community activities, at some time in the future.

F. Methods of Collection.

(1) **Time and Location.** The Borough will collect mandatory and voluntary collectible recyclable materials at such times and in such locations as may be established by regulations promulgated under this Chapter. Until changed by such regulations, newsprint shall be collected at curbside once each month; grass clippings shall be collected in a dumpster designated for that purpose behind the Borough Hall; leaf waste shall be collected at an identified location behind Borough Hall; and clear glass, colored glass, and aluminum shall be collected at curbside once each month.

(2) **Separation or Commingling.** Mandatory collectible recyclable materials shall be separated from collectible municipal waste and stored until collection or other disposition. Voluntary collectible recyclable materials which are to be recycled shall also be separated from collectible municipal waste and stored until collection or other disposition. Regulations promulgated under this Chapter may require the separation of certain collectible recyclable materials from other collectible recyclable materials, or permit the commingling of certain collectible recyclable materials. Until changed by such regulations, newsprint shall be separated from all other

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materials; grass clippings shall be separated from all other materials; leaf waste shall be separated from all other materials; and clear glass, colored glass, and aluminum may be commingled, but otherwise separated from all other materials.

(3) Receptacles. All collectible recyclable materials placed for collection by the Borough or its Contractor shall be placed in bags, garbage cans, or other receptacles, which comply with all applicable regulations promulgated under this Chapter. Without limitation, such regulations may include requirements relating to size, weight, materials, and closure. In addition, Borough Council may require, by Resolution, that any or all collectible recyclable materials placed for collection by the Borough or its Contractor be placed for collection in special bags or other receptacles sold or supplied by the Borough or its agents, and/or that any or all receptacles or bundles placed for the collection of collectible recyclable materials by the Borough or its Contractor bear a special tag, sticker, or similar device, sold or supplied by the Borough or its agents. These special receptacles or devices may be required to assist in implementing a "per bag" fee program, to accommodate any handling, collection, transportation, or disposition concerns, to reduce the costs of collection, transportation, or disposition, or to accomplish any other proper purpose related to the municipal recyclable material collection program.

Until changed by regulations authorized under this Chapter, the following rules apply to collectible recyclable materials to be placed for collection by the Borough or its Contractor: newsprint shall be bundled into bundles not more than two feet thick, and not otherwise placed in bags or other receptacles; grass clippings shall be deposited into the dumpster or other receptacle identified by the Borough for the collection of grass clippings; leaf waste shall be placed in authorized biodegradable bags sold by the Borough or its agents; and clear glass, colored glass, and aluminum shall be placed in authorized recycling containers supplied or sold by the Borough.

G. Right to Recycle Outside of the Borough Program. No person shall be required to place any mandatory or voluntary collectible recyclable materials for collection by the Borough or its Contractor. Any person may arrange to have collectible recyclable materials collected and

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recycled by others, and may retain any profit realized through such recycling, *provided* that if any person operating a commercial, municipal, institutional, or industrial use or a community activity desires to recycle any mandatory or voluntary collectible recyclable materials outside of the municipal collection system, the person must provide the Borough with quarterly statements of the tonnage of materials so recycled, with accompanying documentation.

G. Multi-family rental unit owners. With respect to any particular item of collectible municipal waste or mandatory collectible recyclable material generated or present on any property in the Borough, the owner(s) of the property, the occupant(s) of the property, and any other persons generating such item, shall be jointly and severally responsible for complying with the provisions of this Chapter and the regulations promulgated hereunder. However, if the owner, landlord, or agent of an owner or landlord of multifamily rental housing properties with four (4) or more units establishes a collection system for all mandatory and voluntary recyclable materials at each property, including suitable containers for collecting and sorting materials, easily accessible locations for the containers, and written instructions to the occupants concerning the use and availability of the collection system, such person shall not be responsible for any violations of the recycling provisions of this Chapter by the occupants of the properties.

§ 71-4 Ownership of Refuse Set Out or Deposited for Collection Under the Borough Program.

The ownership of all collectible municipal waste and collectible recyclable materials set out or deposited for collection by the Borough or its Contractor shall be vested in the Borough of Alburtis. All profits realized with respect to such materials shall be the property of the Borough or its Contractor (if agreed by the Borough).

§ 71-5 Disposition of Unacceptable Waste.

No unacceptable waste shall be deposited for collection by the Borough or its Contractor, except that mandatory collectible recyclable materials may be deposited for collection in accordance with the regulations concerning the municipal recycling program. With respect to any particular item of unacceptable waste generated or present on any property in the Borough, the owner(s) of the property, the occupant(s) of the property, and any other persons generating such item, shall be jointly and severally responsible for transporting and disposing, or arranging for the transportation and disposal, of such item in accordance with all applicable federal, state, county, or local statutes, laws, regulations, rulings, plans, determinations, ordinances, resolutions, orders, licenses, and permits.

§ 71-6 Borough Contractors.

Borough Council is hereby authorized to contract for the performance of any or all of the services to be provided by the Borough under this Chapter, and to award a contract therefor from time to time for such period of time as shall be determined by Borough Council. Separate contracts *may*, but need not, be made for collectible municipal waste and for any or all collectible recyclable materials. Any such contract shall require the contractor to assume all responsibility for the collection of the collectible municipal waste and/or one or more collectible recyclable materials in the Borough of Albutis in accordance with the provisions of this Chapter and regulations, orders, and specifications provided under the authority of this Chapter, and to transport and dispose of all such refuse beyond and outside the boundaries of the Borough of Albutis. The contract may fix and regulate, in a manner not inconsistent with the terms of this Chapter, the manner, method, and time of collecting and transporting refuse, the type of equipment required for the purpose, the price to be paid for the performance of said contract, the time or times for the payment thereof, and any other matters germane to refuse collection, transportation, or disposition.

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§ 71-7 Regulations; Supervision of Borough Program.

A. Regulations. To the extent not already governed by a current contract with a Contractor, the Borough Council shall have authority to make regulations concerning the days of collection, type and location of waste receptacles, and such other matters described in or relevant to this Chapter or which otherwise pertain to refuse collection, transportation, and disposition, as the Borough Council may deem advisable, *provided* that such regulations are not contrary to the provisions of this Chapter or any other Ordinance or Resolution. Borough Council may modify any of such regulations from time to time, subject to the terms of any current contract with a Contractor. The Borough Secretary is hereby authorized to issue any temporary regulations under this Chapter which may be necessary, to be effective until the next meeting of Borough Council.

B. Supervision. The collection, transportation, and disposal of collectible municipal waste in the Borough of Alburtis, and collectible recyclable materials presented for disposition by the Borough or its Contractor, shall be under the supervision of the Borough Secretary. The Borough Secretary shall periodically provide notice of the requirements of this Chapter and any regulations promulgated hereunder to the property owners, residents, and occupants of property in the Borough, in any manner deemed effective by the Borough Secretary.

§ 71-8 Prohibited Acts.

A. Unauthorized Collection, etc. It shall be unlawful for any person to collect, transport, or dispose of any refuse generated or present in the Borough in violation of this Chapter or any regulations promulgated hereunder.

B. Outdoor Placement of Refuse. It shall be unlawful for any person to place any refuse in any street, alley, or other public place in the Borough, or upon any private property in the Borough outside of a completely enclosed building, whether the property is owned by such person or not, unless:

(1) the refuse is placed in proper receptacles for collection (other than riff-raff and bound newsprint placed outside at the proper location for collection by the Borough or its Contractor no earlier than sunset on the day before the scheduled collection thereof); and

(2) the refuse is placed on the property with the permission of the owner of such property, or is placed in a public right-of-way at a location directed or approved by the Borough Secretary or Borough Council for collection by the Borough or its Contractor, no earlier than sunset on the day before the scheduled collection thereof.

C. Dumping. It shall be unlawful for any person to place any refuse on any property in the Borough (or in the location designated by the Borough for the collection of refuse generated on the property) unless the refuse was generated on that property, except for minor and incidental quantities of refuse generated by an owner or resident of the property elsewhere, and minor and incidental quantities of refuse generated by a guest or customer of the owner, resident, or operator of the property. It shall also be unlawful for any person to place any refuse in any public waste receptacle in the Borough other than a minor and incidental quantity of refuse. Accordingly, without limitation, it shall be unlawful to dump refuse in the Borough, and it shall be unlawful to transport refuse to a property in the Borough or for the owner of property in the Borough to accept refuse generated off-site, in order to reduce or eliminate any person's costs for disposing of refuse. This subsection C shall not apply to:

(1) the placement of any recyclable materials in locations designated or authorized by the Borough for the collection of such recyclable materials, provided that such placement is in accordance with the regulations of the Borough and the person operating the recycling center; or

(2) any transfer facility licensed under the Solid Waste Management Act, 35 PA. STAT. ANN. § 6018.101 *et seq.*, and operating in conformity with all applicable requirements of Chapter 137 (relating to Zoning).

D. Accumulations of Refuse. It shall be unlawful for any person to allow any accumulation of refuse on any premises in the Borough of Alburtis other than for the purpose of collection in a timely manner provided

or permitted by this Chapter or by any regulations promulgated hereunder. Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Any accumulation of refuse for more than fifteen (15) days shall be presumed to be for a purpose other than collection in a timely manner.

E. Removal of Receptacle Covers; Removal of Refuse. It shall be unlawful for any person other than the occupants of the premises on which refuse receptacles are stored or the authorized collector of such refuse to remove the covers of any of the refuse receptacles or to remove the refuse stored in such containers.

F. Removal of Recyclable Materials. It shall be unlawful for any person to remove any recyclable materials from any drop-off recycling receptacle or from any curbside recycling receptacle after the receptacle has been placed in the designated or approved location for the collection of the recyclable materials, other than the authorized collector of the recyclable materials or the person operating the drop-off recycling center.

G. Pollution of Water. It shall be unlawful for any person to throw or deposit any refuse in any stream or other body of water.

H. Attempted Disposal of Unacceptable Waste with Collectible Municipal Waste. It shall be unlawful for any person to place any unacceptable waste, or any receptacle containing any unacceptable waste, in any location designated for the collection of collectible municipal waste by the Borough or its Contractor in any manner which would suggest, to a reasonable person, that the person so placing the material intends to have the Borough or its Contractor collect the material as collectible municipal waste.

I. Adulteration of Drop-Off Recyclables. It shall be unlawful for any person to place any materials in any drop-off receptacle designated by the Borough for the collection of one or more collectible recyclable materials by the Borough or its contractor, unless the materials so placed consist solely of those collectible recyclable materials designated for collection in that receptacle.

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J. Adulteration of Curbside Recyclables. It shall be unlawful for any person to place any receptacle identified for participation in a curbside voluntary or mandatory recycling program of the Borough in any location designated for the collection of collectible recyclable materials by the Borough or its Contractor, unless the materials inside such receptacle consist solely of those collectible recyclable materials designated for collection in that receptacle.

K. Diversion of Collectible Municipal Waste from the Borough Collection Program. Except as provided in Section 71-2(E):

(1) It shall be unlawful for any person other than the Borough or its Contractor to collect, transport, or dispose of any collectible municipal waste generated or present in the Borough; and

(2) It shall also be unlawful for any person to arrange for the collection, transportation, or disposition, of any collectible municipal waste generated or present in the Borough by any means other than the municipal waste system operated by the Borough or its Contractor.

This subsection K shall not apply to any refuse generated outside of the Borough and which is present in the Borough only during transportation to another location outside of the Borough.

§ 71-9 Fees.

A. Schedule of Fees.

(1) **In General.** Borough Council is hereby authorized to establish, from time to time, by Resolution, a schedule of fees for the services provided under this Chapter to be imposed with respect to each developed property in the Borough on which solid municipal waste is generated or present (including industrial properties generating lunchroom or office waste), and/or with respect to each bag, receptacle, or other unit of collectible municipal waste or collectible recyclable materials placed for collection by the Borough or its Contractor.

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(2) **Methods of Imposing Fees.** Different methods of imposing fees may be charged with regard to different materials (*e.g.*, a “per bag” fee may be charged for leaf waste while a “per property” fee is charged for collectible municipal waste or other collectible recyclable materials), different methods of collection (*e.g.*, drop-off or curbside), or different volume levels (*e.g.*, a base fee for basic service, plus an additional fee [whether “per bag” or an annual fee] for additional volume).

(3) **Differentiation among Properties.** Different fees may be charged with respect to properties with different types of use (*e.g.*, residential, commercial, municipal, school, institutional, etc.), properties which generate different volumes of refuse, and/or properties which may be differentiated by any other reasonable criteria.

(4) **All Properties Charged for “Per Property” Fees.** Any “per property” fee shall be collected with respect to a property regardless of whether the property owner elects to utilize the services provided under this Chapter (except as provided under Section 71-2(E)).

(5) **Sales of Required Receptacles.** A “per bag” fee may be imposed by charging a premium for authorized bags or other authorized receptacles sold for use in the Borough program for collecting collectible municipal waste and/or collectible recyclable materials, in addition to the cost of such bags or receptacles.

(6) **Incentives.** Any fee schedule may include incentives to encourage the recycling of collectible recyclable materials.

(7) **Limitation on Amount of Fees.** The aggregate fees charged under this Chapter shall not exceed the reasonably anticipated costs to be incurred by the Borough for collecting, transporting, and disposing collectible municipal waste and collectible recyclable materials (either directly or under contract with the Contractor), and administering and enforcing the provisions of this Chapter and any contract with a Contractor, plus a reasonable contingency.

B . Responsibility for Fees. The fees imposed under this Chapter with respect to any given property shall be the joint and several responsibility of all record owners of the property, all persons in possession of the property, and all other persons producing or responsible for the

existence or disposal of refuse present on such property, or for whom such refuse is removed.

C. Billing and Collection of Fees. All bills for the fees imposed under this Chapter with respect to any given property shall be rendered annually and shall thereupon be immediately due and payable. All such bills shall be payable to the Borough at the Borough Office. All accounts shall be considered delinquent if not paid within thirty (30) days after the date of the bill, and accounts which are not paid within thirty (30) days after the date of the bill shall be subject to a penalty of fifteen percent (15%) of the amount of the bill. If a delinquent account is not paid within sixty (60) days from the date of the bill, the Borough Secretary shall refer the account to the Borough Solicitor with instructions to proceed for the collection of such unpaid charges, together with all penalties thereon, by a civil action or, at the election of the Borough, in any other manner provided by law for the collection of a municipal claim.

D. Receipt of Fees. It shall be the duty of the Borough Secretary, *ex officio*, to receive all fees provided under this Chapter and remit them to the Borough Treasurer for deposit in Borough accounts.

§ 71-10 Violations and Penalties.

Any person who violates any provision of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than Three Hundred Dollars (\$300.00), in the discretion of the district justice, plus all court costs, including reasonable attorneys' fees incurred by the Borough as a result thereof. Nothing contained in this section shall be construed or interpreted to grant to any person or entity, other than the Borough, the right to commence any action for enforcement of any provision of this Chapter.

LAW OFFICES

WEAVER, MOSEBACH,

PIOSA, HIXSON & MARLES

A PROFESSIONAL CORPORATION

ONE WINDSOR PLAZA, SUITE A-200

7535 WINDSOR DRIVE

ALLENTOWN, PA 18195-1014

DULY ORDAINED and ENACTED by the Borough Council of the Borough of Alburdis, this 9 day of December, 1992, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Carlton R. Raines
Carlton R. Raines, President

Attest:

Louise Staub
Louise Staub, Secretary

AND NOW, this 9 day of December, 1992, the above Ordinance is hereby

APPROVED.

Ronald J. DeLaco
Ronald J. DeLaco, Mayor

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