

Chapter 535
SOLID WASTE

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[**HISTORY:** Adopted by the Borough Council of the Borough of Souderton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Municipal Waste Collection and Recycling
[Adopted 4-2-2007 by Ord. No. 667]

§ 535-1. Title.

This article shall be known as the "Municipal Waste Collection and Recycling Ordinance."

§ 535-2. Definitions and word usage.

A. As used in this article, the following terms shall have the meanings indicated:

ACT 97 — The Solid Waste Management Act of 1980.¹

ACT 101 — The Municipal Waste Planning, Recycling and Waste Reduction Act of 1988.²

ALUMINUM — Empty, all-aluminum beverage and food containers, commonly known as "aluminum cans."

BIMETAL CANS — Empty food or beverage containers constructed of a mixture of ferrous metal, usually tin or steel, and nonferrous metal, usually aluminum.

BULK ITEMS — Any large durable goods, such as refrigerators, washing machines, window air conditioners, hot-water heaters, dishwashers and any other major home

1. Editor's Note: See 35 P.S. § 6018.101 et seq.

2. Editor's Note: See 53 P.S. § 4000.101 et seq.

appliances in addition to other large bulk items such as dressers, beds, mattresses, sofas, television sets and other large household items.

BUSINESS(ES) — The legal owner, occupant or lessee of a commercial, industrial or cooperative enterprise, firm, partnership, corporation, association, institution, trust or governmental entity that engages in any form of business or governmental operations.

CORRUGATED PAPER — Paper products made of a stiff, moderately thick paper board, containing folds or alternating ridges, commonly known as "cardboard."

DEP — The Pennsylvania Department of Environmental Protection.

DISTRICT — The area within the political boundaries of the member municipalities of the Northern Montgomery County Recycling Commission, presently including Ambler Borough, Franconia Township, Hatfield Borough, Hatfield Township, Lower Gwynedd Township, Lower Salford Township, Montgomery Township, North Wales Borough, Souderton Borough, Telford Borough, Towamencin Township and including all new member municipalities and excepting member municipalities who have completed the withdrawal process.

GLASS — Products made from silica or sand, soda ash and limestone. The product may be transparent (clear) or colored (e.g., brown or green) and used as a container for packaging (e.g., jars) or bottling of various matter. Expressly excluded are noncontainer glass, window or plate glass, light bulbs, blue glass and porcelain and ceramic products.

GRASS CLIPPINGS — The material bagged or raked during or after cutting of a lawn, field or similar grassed area.

HIGH-GRADE OFFICE PAPER — All types of high-grade, white or colored paper, bond paper and computer paper used in commercial, institutional, business, office and municipal establishments.

HOUSEHOLD HAZARDOUS WASTE — Small quantities of hazardous waste (as defined in the Solid Waste Management Act) available to a person or entity on a retail basis, such as pesticides, certain paints, paint thinners and solvents, cleaning agents and automotive products.

IMA — The intermunicipal agreement adopted by the municipalities which are members of the Northern Montgomery County Recycling Commission.

LANDLORD(S) — Any individual or organizational owner who rents and/or leases residential units, commercial space or an industrial complex(es). Landlords own the properties in question and deal directly with their tenants or lessees.

LEAF WASTE — Leaves, garden residues, shrubbery and tree trimmings and similar material, but does not include grass clippings.

MAGAZINES AND PERIODICALS — Printed matter containing miscellaneous written pieces published at fixed or varying intervals. Such matter typically has a gloss or shine added to the paper. Expressly excluded are all other paper products of any nature whatsoever.

MIXED PAPER — All types of paper combinations, such as colored paper, carbonless forms, ledger paper, colored paper envelopes, mixtures of high-grade office paper and the like.

MUNICIPALITY — Souderton Borough.

MUNICIPAL WASTE — Any municipal waste as defined by § 103 of the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. § 6018.101 et seq., and § 103 of Act 101 and any rules and regulations promulgated thereunder.

MUNICIPAL WASTE COLLECTOR — The firm or firms designated by and under contract with the Borough of Souderton to collect residential municipal waste and/or recyclable materials within the Borough of Souderton. Any privately contracted collector, remover, transporter and/or hauler of solid waste and recyclable materials generated within the Borough by exempted residential complexes or exempted commercial, industrial or institutional properties or construction or demolition waste generated within the Borough. [Amended 12-7-2015 by Ord. No. 720]

NEWSPAPER — Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest.

NMCRC — The Northern Montgomery County Recycling Commission which is established as provided for in Act 101.

NONCURBSIDE RESIDENT(S) — Residents of a multifamily residential dwelling unit where provision is made to collect and dispose of waste through collective dumpsters.

NORTHERN DISTRICT or DISTRICT — The area within the political boundaries of the member municipalities of the Northern Montgomery County Recycling Commission, presently including Ambler Borough, Franconia Township, Hatfield Borough, Hatfield Township, Lower Gwynedd Township, Lower Salford Township, Montgomery Township, North Wales Borough, Souderton Borough, Telford Borough, Towamencin Township and including all new member municipalities and excepting member municipalities who have completed the withdrawal process.

PARTICIPATING MUNICIPALITIES — Those municipalities which have executed the intermunicipal agreement (IMA).

PERSON or ENTITY — Any individual, firm, partnership, corporation, business, association, institution, cooperative enterprise, trust, municipality, municipal authority, federal institution or agency, state institution or agency (including, but not limited, to the Department of General Services and the Public School Building Authority), other governmental agency or any other legal entity or group whatsoever which is recognized by law as the subject of rights and duties. In any provision of this article prescribing a fine, penalty or imprisonment or any combination of the foregoing, the term "person" or "entity" shall mean the officers and directors of any corporation or other legal entity having officers and directors.

PLAN or COUNTY PLAN — The latest revision of the county-wide municipal waste management plan adopted by the county and approved by DEP, as such may hereinafter be supplemented, revised, amended or modified in compliance with the law.

PLASTIC CONTAINERS — Empty plastic food and beverage containers. Due to the large variety of plastics, the recycling regulations will stipulate the specified types of plastics that may be recycled.

RECYCLABLE MATERIALS — Materials generated by a person or entity which can be separated from municipal waste and returned to commerce to be reused as a resource in the development of useful products. Materials which may be recycled include, but are not limited to, clear glass, colored (brown or green) glass, aluminum, steel and bimetal cans, high-grade office paper, mixed paper, newspaper, corrugated paper and plastic containers as may be designated from time as recyclable materials.

RECYCLING COLLECTOR — A municipal waste collector engaged in the collection, removal, transportation or hauling of recyclable materials.

RECYCLING COMMISSION — The Northern Montgomery County Recycling Commission which is established as provided for in Act 101.

RECYCLING PROGRAM — The program developed and implemented by the Recycling Commission, pursuant to the IMA, to collect and recycle recyclable materials in the Northern District. As provided in the IMA, such program shall be consistent with the county plan (as revised and supplemented) adopted by the county and approved by DEP, as such may hereinafter be revised, amended or modified in compliance with the law.

RENTAL AGENT(S) — Any individual or organization who or which assumes the owner's responsibility in renting and/or leasing residential units, commercial space or industrial complexes. Agents do not own the properties in question, but, deal directly with tenants or lessees on behalf of the owner(s).

RESIDENT(S) — The legal owner, occupant or lessee of a single-family residential unit in a municipality served by curbside collection of municipal wastes and/or recyclables or owner, occupant or lessee of any other type of multifamily residential unit, including, but not limited to, townhomes, duplexes, condominiums and apartments, whose multifamily unit has curbside collection of municipal waste and/or recyclables. Also classified as a resident will be any business professional who operates a profession from his/her personal residence.

- B. All terms not separately defined in this article that are contained in Act 97 and Act 101 are incorporated herein by reference.

§ 535-3. Legislative intent.

- A. The reduction of the amount of municipal waste and conservation of recyclable materials is an important public concern by reason of the growing problem of municipal waste disposal and its detrimental impact on the environment. It is the intent of this article to require, promote and regulate recycling activities in the municipality and to protect the health, safety and welfare of residents.
- B. This article has been developed to meet and implement municipal responsibilities established under Act 101.

- C. It is the intent of this article to promote intergovernmental cooperation in recycling activities by and among the municipalities comprising the Northern Montgomery County Recycling District. Such cooperation is intended to more efficiently conduct recycling programs and to reduce costs.
- D. The Borough's adoption of this article anticipates the assignment of certain of its duties and powers under Act 101 to the NMCRC with respect to recycling activities and enforcement against violations of this article. Such assignment of duties and powers will be accomplished in accordance with § 304(c) of Act 101³ and as set forth in this article and in the intermunicipal agreement adopted by the member municipalities of the NMCRC. Duties and powers not assigned by the intermunicipal agreement or subsequent agreement shall remain with the Borough.
- E. Program authority of NMCRC.
- (1) The NMCRC is authorized to carry out a recycling program on behalf of the member municipalities in accordance with the terms and conditions of the IMA.
 - (2) In accordance with the responsibilities in this article, the NMCRC is authorized to establish, by resolution, rules and regulations related to the administration of the recycling program and to administer and enforce against violations of all such rules and regulations. The NMCRC shall determine the recyclable materials to be separated by residents, noncurbside residents and businesses and collected by municipal waste collectors; however, this designation may be changed by the NMCRC from time to time. The municipality may require additional materials to be recycled, in which event such additional materials shall be deposited at dropoff centers designated by the municipality, and the municipal waste collector will not be responsible for collecting such materials. Any additional requirements imposed by the municipality shall be consistent with and not interfere with the recycling program developed and implemented by the NMCRC. All commercial, municipal and institutional establishments shall also be required to separate the materials designated by the NMCRC for recycling.
 - (3) In accordance with § 1501(c)(1)(iii) of Act 101,⁴ the NMCRC shall be authorized to exempt persons occupying commercial, institutional and municipal establishments from the requirements of this article if they have otherwise provided for the recycling of materials designated by this article and any subsequent resolutions. To be eligible for this exemption, the commercial, institutional or municipal waste generator must provide, on a quarterly basis, written documentation to the municipality and the NMCRC of the total quantity of each material recycled, in the form and by the Act as provided for in the NMCRC's rules and regulations. Exemptions shall be handled administratively by the NMCRC.

3. Editor's Note: See 53 P.S. § 4000.304(c).

4. Editor's Note: See 53 P.S. § 4000.1501(c)(1)(iii).

§ 535-4. Responsibilities of generator.

- A. Each person or entity, unless exempted under the provisions of this article, who or which generates municipal waste and/or designated recyclable materials shall have such waste and recyclable materials collected by the municipal waste collector designated by and under contract with the Borough of Souderton. Such collection shall be no less frequent than one time per week. Persons or entities receiving curbside waste and recyclable service from the municipal waste collector designated by the Borough of Souderton shall pay such fees for such service or alternate service to the Borough as shall be established from time to time by resolution of the Borough Council of the Borough of Souderton. **[Added 9-7-2010 by Ord. No. 694; amended 12-7-2015 by Ord. No. 720]**
- B. Each person or entity who or which generates municipal waste in the district shall be responsible for complying with the requirements of this article for the separation of recyclable materials as required by Act 101. This shall include tenants and lessees occupying leased properties.
- C. Owners, landlords or rental agents of any leased property, other than a single-family-occupied property, shall be responsible for publicly posting educational information provided by the NMCRC, municipality and/or municipal waste collectors, providing appropriate recyclable material collection containers and providing for pickup of such containers in accordance with this article. Owners, landlords or rental agents of a single-family-occupied property may assign such responsibility to the tenant or lessee occupying the property through a lease or rental agreement or other written assignment.
- D. Every person or entity must separate household hazardous waste and leaf waste from the recyclable materials and other municipal waste. It is the responsibility of a person or entity to dispose of household hazardous waste in accordance with applicable law. Provisions for the collection or use of leaf waste shall be the responsibility of the municipal waste collectors as more fully set forth in § 535-11 hereof.
- E. All occupants of single-family homes, townhouses, row homes and apartments where municipal waste collection is provided by a collector under contract with the Borough of Souderton shall maintain separate containers to be provided by the Borough or the municipal waste collector for municipal waste (tote or bag, as the case may be) and for all designated recyclable materials in a commingled or modified commingled (e.g., different materials separated into paper bags and placed in the container) fashion, as established by the municipal waste collector, subject to the rules of the NMCRC. No municipal waste or recyclable material container or bag shall be placed at the curb or in the front yard of any property except during the period beginning at 6:00 p.m. on the evening prior to the day of scheduled collection, and the empty container shall be removed by 12:00 midnight on the day of scheduled collection. The time for placing and removing containers may be changed by the Borough of Souderton by amendment of this article. Enforcement of container and bag rules for placement at curbside shall be the responsibility of the Borough of Souderton. Municipal waste and recycling placed at the curb or street line for collection shall be in closed, lidded totes or waterproof containers. **[Amended 12-7-2015 by Ord. No. 720]**
- F. Owners or landlords of any multifamily residential units, such as apartments or condominiums, where individual residential refuse collection does not occur shall be

responsible for providing suitable containers or dumpsters for recyclable materials. Such containers or dumpsters shall be provided through arrangements with a municipal waste collector, and source-separated or commingled recyclable material containers or dumpsters may be utilized. The containers or dumpsters must be provided at easily accessible locations, and written instructions must be provided to the occupants concerning the use and availability of such containers or dumpsters. Owners or landlords of multifamily residential units who comply with the requirements of this subsection shall not be liable for the noncompliance of any persons or entity occupying their buildings as such noncompliance relates to separation of materials. All tenants or lessees of multifamily residential units shall be responsible for separating recyclable materials and placing them in the containers or dumpsters provided for such purposes.

- G. Owners or landlords of any institutional, commercial, business or industrial establishment shall be required to meet the same requirements outlined in § 535-4F, unless exempted under § 535-4C of this article or unless such responsibilities are specifically assigned, in writing, to the tenant or lessee of such property.
- H. The Borough shall establish an alternate to traditional curbside collection of solid waste for persons or properties identified as low-volume generators of solid waste. Upon application to the Borough for such designation, the generator shall be permitted to purchase from the Borough or at a designated location and utilize up to four individual trash collection bags per week in place of the ninety-six-gallon curbside tote. Souderton Borough logo branded trash collection bags shall not be used for recyclable materials, and the generator shall continue to be responsible to separate and pay the established fee for the collection of recyclable materials. **[Added 12-7-2015 by Ord. No. 720]**
- I. Charges for municipal waste and recyclables collection shall be billed by the Borough of Souderton to the owners of properties required to utilize such services on a quarterly basis. The charges for such services shall be established, from time to time, by resolution of the Borough Council of the Borough of Souderton. Charges shall constitute liens and encumbrances on the properties served and shall be collectable in the same manner as municipal tax claims. **[Added 12-7-2015 by Ord. No. 720]**

§ 535-5. Materials to be recycled.

- A. All homes, apartments and other residential establishments shall be required to separate and recycle the following: newspapers and inserts, magazines, catalogs, envelopes, paperback books, cardboard, clean pizza boxes, office and school papers (colored papers), box board (cereal, cake and cracker boxes), paper egg cartons, paper bags, aluminum cans and clean aluminum foil, tin and empty steel aerosol cans, empty glass jars and bottles and all plastic containers labeled No. 1 to No. 7. **[Amended 12-7-2015 by Ord. No. 720]**
- B. Commercial establishments will be required to separate and recycle the following: corrugated paper, high-grade office paper and aluminum cans.
- C. Restaurants and taverns shall be required to separate and recycle the following: newsprint, aluminum cans, steel cans, bimetallic cans, No. 1 PET plastics and No. 2 HDPE plastics.

- D. Community events. Recycling containers shall be provided at all community events attended by 200 or more people. The disposal of recyclable materials collected at such events shall be in accordance with the provisions of this article. **[Added 9-7-2010 by Ord. No. 694]**

§ 535-6. Responsibilities of municipal waste collectors.

- A. Reporting and recordkeeping requirements.
- (1) Unless specifically provided otherwise in the NMCRC's rules and regulations, all municipal waste collectors shall deliver or include with their invoices sent to customers an information sheet on recycling at least every six months.
 - (2) Municipal waste collectors shall be responsible for obtaining weight and volume data on all municipal waste and recyclable materials collected by them in each municipality which is a member of the NMCRC. Said data shall be supplied to the NMCRC on a quarterly basis and fourth quarter data shall be supplied to the NMCRC by January 15 for the preceding year so that the NMCRC, on behalf of the municipality, may submit reports in accordance with Act 101 and other applicable laws and submit applications for recycling performance grants, all in accordance with the rules and regulations of the NMCRC.
 - (3) Municipal waste collectors shall maintain records of their collection, removal, transportation and hauling activities and make them available for inspection by the NMCRC, in accordance with the rules and regulations of the NMCRC.
- B. Collection, processing and marketing requirements.
- (1) Each municipal waste collector operating in the municipality shall be responsible for complying with the requirements of this article and the NMCRC's rules and regulations for the collection, processing and marketing of recyclable materials.
 - (2) The municipal waste collector shall, in providing refuse collection and disposal services to a single-family residential home, also provide for the collection of recyclable materials. Unless specifically provided otherwise in the NMCRC's rules and regulations, where once or twice a week municipal waste collection is provided, the municipal waste collector must provide at least once a week recyclable material collection. Customers using once a month municipal waste collection must have recyclable materials collected at least once a month.
 - (3) The collection of recyclable materials for all establishments other than single-family residential homes shall be on an as-required basis as established by the NMCRC.
 - (4) A municipal waste collector shall not be permitted to allow recycling containers or dumpsters to fill beyond capacity and shall schedule the frequency of such collection accordingly.
 - (5) The municipal waste collector shall be responsible for the processing and marketing of the recyclable materials. Such activities may be conducted by the municipal waste collector or any agent thereof or a private entity conducting such

business, a nonprofit entity able to undertake such effort or any governmentally owned or operated facility capable of such functions.

- (6) The municipal waste collector shall, prior to initiating processing and marketing activities, provide the NMCRC with a summary of its proposed efforts, including the location of the facility(ies) to which the recyclable materials will be delivered, to the maximum extent possible. All such facility(ies) shall be appropriately licensed and permitted. Updates shall be provided as changes are made.
- (7) All municipal waste collectors shall keep records of the quantities of recyclable materials collected in the municipality. The records shall include the weight of the total quantities of recyclable materials and total quantities of municipal waste and an estimate of the corresponding volume of material for both recyclable materials and municipal waste. Estimates of the individual components comprising the commingled recyclable materials shall also be provided. Written reports shall be provided to the NMCRC on reporting forms provided by the Authority and shall include the name and location of the processing center and/or recyclable materials dealer and shall be submitted in accordance with the time schedules established in this article.
- (8) Leaf waste quantities shall be recorded by the municipal waste collector collecting such materials. Such quantities may be in the form of estimates on either a cubic yard or tonnage basis collected, and written documentation must be provided to the NMCRC by January 31 of each year for materials collected in the preceding calendar year of the total quantity of leaf waste collected. The collector has the option of reporting tonnage either in compacted or uncompact cubic yards.
- (9) Municipal waste collectors shall not collect refuse, recyclable materials or any other wastes between the hours of 8:00 p.m. and 6:00 a.m. Eastern standard time nor, when applicable, between 8:00 p.m. and 6:00 a.m. daylight saving time. Failure to comply with this provision shall subject a municipal waste collector to the enforcement by the individual municipality.

§ 535-7. Assignment of program responsibilities; intergovernmental cooperation.

- A. The Borough recognizes that intergovernmental cooperation among the municipalities comprising the membership of the NMCRC will be of benefit to the municipality by more efficiently conducting recycling program activities. Intergovernmental cooperation efforts will include, but are not limited to, the following:
 - (1) Ongoing determination of the list of recyclable materials for the district municipalities.
 - (2) Development and implementation of joint education programs, including the placement of newspaper ads.
 - (3) Preparation of information for municipality newsletters.
 - (4) Development and implementation of reporting forms and grant applications and the filing of such forms and applications with the appropriate agencies.

- (5) Preparation of informational sheets for municipal waste collectors. Promulgation of rules and regulations pertaining to the recycling program.
- (6) Authorization for the NMCRC Solicitor to seek enforcement against violations of this article as specified herein.

B. Intermunicipal agreement.

- (1) In order to implement the intent and terms of this article, the municipality, pursuant to the authority of the Intergovernmental Cooperation Act, 53 Pa.C.S.A. § 2301 et seq., and Article 9, § 5, of the Constitution of the Commonwealth of Pennsylvania, has determined to enter into an intermunicipal agreement ("IMA") between the municipalities comprising the NMCRC.⁵
- (2) Terms and implementation of IMA. The terms and implementation of the IMA shall be as more fully set forth in the IMA and this article, as follows:
 - (a) The NMCRC shall develop, implement and maintain a recycling program for the municipalities comprising the NMCRC.
 - (b) The participating municipalities shall certify that they have enacted a municipal recycling ordinance in a form substantially similar to this article by providing an executed and attested copy of the ordinance to the NMCRC Solicitor.
 - (c) The NMCRC shall be authorized to promulgate rules and regulations and administer and enforce those rules and regulations as desired or to delegate such enforcement to the member municipalities.
 - (d) The NMCRC shall be authorized to enforce the IMA and select municipal ordinances enacted pursuant to the IMA.
 - (e) The purpose of the IMA is to provide a uniform recycling program for the municipalities comprising the membership of the NMCRC and to minimize duplicative efforts by the member municipalities.
- (3) Findings under Intergovernmental Cooperation Act. As required by the Intergovernmental Cooperation, 53 Pa.C.S.A. § 2301 et seq., as amended, the following matters are specifically found and determined:⁶
 - (a) The conditions of agreement are set forth in the IMA.
 - (b) The duration of the term of the agreement is set forth in §§ 913 and 914 of the IMA.
 - (c) The purpose of the IMA is to cooperate with the Authority and other participating municipalities in developing, implementing and maintaining a recycling program.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (d) The organizational structure necessary to implement the agreement is set forth in the IMA, with which the officers of the municipality shall cooperate.
- (e) The manner in which property, real or personal, shall be acquired, managed, licensed or disposed of is by way of lease or other contract unless otherwise set forth in the IMA.

§ 535-8. Ownership of recyclable materials and municipal waste.

- A. All recyclable materials and municipal waste placed at curbside for collection or in any container or dumpster designated for recyclable materials shall become the property of the municipal waste collector providing the service, except as outlined in § 535-9 of this article.
- B. It shall be a violation of this article for any person or entity, other than the municipal waste collector providing the service, to collect or remove any of the recyclable materials from their designated collection location, except as outlined in § 535-9 of this article. Each unauthorized collection from one or more designated locations on one calendar day, in violation hereof, shall constitute a separate and distinct offense punishable as hereinafter provided.

§ 535-9. Alternate recycling activities.

- A. Any person, volunteer organization or other entity may utilize alternative methods, other than collection by a municipal waste collector, to accomplish the purpose of reutilizing recyclable materials. Any such person, volunteer organization or other entity shall register such programs with the NMCRC recycling consultant and the municipality where the recycling activity shall take place. All recyclable materials tonnage data shall be collected and reported to the NMCRC recycling consultant in accordance with all applicable procedures for the reporting of such information.
- B. The NMCRC is authorized to permit an alternate recycling program to be developed in accordance with § 1501(h) of Act 101 if the requirements of that section can be complied with. The NMCRC shall, before implementation of the program, review and approve the program. The municipal waste collector conducting the program must provide quarterly written documentation to the NMCRC of the total quantity of each material recycled.

§ 535-10. Handling of leaf waste. [Amended 12-3-2007 by Ord. No. 675]

- A. The Borough of Souderton hereby authorizes establishment of a program for curbside collection of leaf waste at least once during the spring and at least once during the fall of each year. In addition thereto, the leaf waste collection program shall be augmented by designation by the Borough of a DEP-permitted, dropoff compost facility for residents of the Borough to utilize as needed, which facility must be open at least once per month for collection of leaf waste generated between scheduled collections.

- B. Leaf waste collection shall be conducted by the Borough or authorized private municipal waste collectors in accordance with regulations of DEP. All leaf waste shall be disposed of in a DEP-permitted compost facility in accordance with all applicable state guidelines.
- C. All private municipal waste collectors shall provide the Borough and NMCRC with the name and address of the facility(ies) where the leaf waste will be disposed and report the quantity in tons or cubic yards. Leaf waste shall not be commingled with all other municipal solid waste. The disposal of leaf waste at a sanitary landfill, waste-to-energy facility or any other facility which is not a DEP-permitted composting facility is strictly prohibited.
- D. The methodology for separating and collecting leaf waste shall be established and implemented by the Borough and imposed upon participating private waste collectors. The leaf waste collection guidelines set forth in this article are intended to be general in nature. The actual leaf waste collection and education program shall be established in more detail by the Borough pursuant to resolution and is subject to modification, as needed from time to time, provided any modifications to the program comply with this article and the most recent regulations of DEP.
- E. Leaf waste shall not be left at curbside more than 24 hours prior to collection and shall not be left in a form which obstructs the flow of traffic or affects the performance of drainage facilities or catch basins.

§ 535-11. Violations and penalties. [Amended 12-3-2007 by Ord. No. 675]

- A. Any person or entity violating the provisions of this article pertaining to the separation of recyclable materials and leaf waste, collected within the boundaries of any municipality which is a member of the NMCRC, including comingling of recyclable materials and leaf waste with municipal waste by haulers and their employees, shall receive an official written warning sent certified mail, return receipt requested, from the NMCRC Solicitor and/or from the Solicitor for the municipality in which the alleged violation occurred for the first offense. Thereafter, within two years from the date of the written warning for the first offense, any person or entity violating any of the provisions of this article pertaining to the separation of recyclable materials and leaf waste collected within the boundaries of any municipality which is a member of the NMCRC shall be subject to a criminal fine of not less than \$2,500 per violation, plus damages, court costs and reasonable attorney's fees and imprisonment in the Montgomery County Correctional Facility to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violations shall be by action commenced by the NMCRC and/or the municipality in which the alleged violation occurred before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
- B. No municipal waste collector shall knowingly collect municipal waste which contains recyclable materials or leaf waste. The municipal waste collector shall provide a person or entity violating the provisions contained herein with written notice for the first offense and also provide the NMCRC and the member municipality with the same written notice. Any municipal waste collector who shall knowingly violate the

provisions of this subsection and collect municipal waste containing recyclable materials and leaf waste from a person or entity who or which has previously been notified by the NMCRC, municipality and/or a municipal waste collector of noncompliance shall receive an official warning from the member municipality and/or NMCRC for the first offense. The municipal waste collector, for subsequent offenses within a two-year period of the warning, upon conviction, shall be sentenced to pay a fine of not less than \$1,500 per violation, plus damages, court costs and reasonable attorney's fees and imprisonment in the Montgomery County Correctional Facility to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violation shall be by action commenced by the NMCRC and/or the municipality in which the alleged violation occurred before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

- C. Any person or entity that shall violate any provision of this article not covered in Subsection A or B above shall receive an official written warning sent certified mail, return receipt requested, from the NMCRC Solicitor and/or from the Solicitor for the municipality in which the alleged violation occurred for the first offense. Thereafter, within two years from the date of the written warning for the first offense, any person or entity violating any of the provisions of this article not otherwise covered in Subsection A or B shall, upon conviction, be subject to a criminal fine of not less than \$500 per violation, plus damages, court costs and reasonable attorney's fees and imprisonment in the Montgomery County Correctional Facility to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violations shall be by action commenced by the NMCRC and/or appropriate member municipality before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Each day on which a violation of this article continues shall constitute a separate offense punishable by a like fine or penalty.
- D. The NMCRC is authorized to establish, through its rules and regulations, procedures through which violations of this article and of the NMCRC's rules and regulations themselves may be determined and administrative sanctions therefor, including, but not limited to, imposition of monetary penalties.
- E. Nothing in this section shall be construed to limit the NMCRC's remedies which shall include, but not be limited to, the filing of actions at law or in equity seeking damages and/or injunctive relief.

§ 535-12. Authorization to execute IMA.

The Borough Council hereby authorizes the President of Borough Council to execute that certain intergovernmental agreement attached hereto as Exhibit A' between all the municipalities comprising the membership of the Northern Montgomery County Recycling Commission which IMA sets forth the procedures and administration of the NMCRC.

7. Editor's Note: Exhibit A is on file in the Borough offices.

