

BOROUGH OF DURYEA

ORDINANCE NO. 2014-2

AN ORDINANCE OF THE BOROUGH OF DURYEA, LUZERNE COUNTY PENNSYLVANIA, AMENDING ORDINANCE 93-6 RELATING TO THE SANITATION AND PROMOTION OF PUBLIC HEALTH AND SAFETY; PROVIDING FOR THE ESTABLISHMENT OF A MUNICIPAL COLLECTION AND DISPOSAL SERVICE FOR ALL GARBAGE, RUBBISH AND ASHES ACCUMULATED IN THE BOROUGH OF DURYEA, PROVIDING FOR THE ENFORCEMENT AND PENALTIES FOR THE VIOLATION THEREOF, AND DESIGNATING THE BOROUGH OF DURYEA AS THE EXCLUSIVE COLLECTOR OF ALL RESIDENTIAL SOLID WASTE AND RECYCLABLE MATERIALS WITHIN THE BOROUGH OF DURYEA, AND REPEALING ORDINANCES AND PARTS OF ORDINANCES INCONSISTENT HEREWITH.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF DURYEA AND IT IS HEREBY ORDAINED AND ENACTED by authority of the same as follows:

ARTICLE I
DEFINITIONS

A. Application of Terms. The terms defined herein shall be used to interpret all of the applicable provisions of this Ordinance.

B. Meaning. Unless otherwise expressly terms shall, the following terms shall, for the purpose of this Ordinance, have the meanings indicated in this Article I.

C. Terms Not Defined. When terms are not defined, they shall have their ordinary accepted meanings or such meanings as the context may imply.

D. Terms.

(1) Garbage. The term "garbage" shall mean the animal and vegetable waste resulting from handling, preparing, cooking and consuming of foods. It shall not include more than a one (1%) percent content of free liquids. It shall not include food processing wastes from commercial canneries, packing plants, or similar industries, nor large quantities of condemned food products.

(2) Ashes. The term "ashes" shall mean the residue from the burning of wood, coal, coke and other combustible materials for the purposes of residential heating and cooking. It shall not include the cinders produced in steam generating plants.

(3) Rubbish. The term "rubbish" shall mean all waste materials not included in garbage and ashes except building rubbish from building construction or reconstruction, street construction and maintenance refuse, industrial refuse, dead animals, abandoned large machinery or vehicles or such other waste materials as are not commonly produced in homes, stores and institutions.

(4) Refuse. The term "refuse" shall mean garbage, ashes and rubbish as herein defined.

(5) Garbage Permit Sticker. The term "garbage permit sticker" shall mean a color-coded marker sold by the Borough which shall be displayed prominently, on a door or window of Borough residences and community establishments that faces the collection point of refuse, by persons residing in the Borough.

(6) Person. The term "person" shall mean any natural individual, partnership, corporation or other legally recognized entity, and in this Ordinance, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(7) Borough. The term "Borough" shall mean the Borough of Duryea whose principal place of business is located at 315 Main Street, Duryea, Luzerne County, Pennsylvania.

(8) Street Commissioner. The term "Street Commissioner" shall mean the person designated by the Borough to oversee the administration and enforcement of refuse collection and removal within the Borough.

(9) Authorized Hauler. The term "authorized hauler" shall mean the Borough, its contracted hauler, or any private hauler authorized by the Borough in accordance with the terms of this Ordinance.

(10) Private Hauler. The term "private hauler" shall mean any hauler, whether contracted by a commercial establishment within the Borough, for the collection and/or removal of its refuse.

(11) Residence. The term "residence" shall mean a dwelling unit in a house or row of houses or building with a dwelling unit being defined as a house or building thereof with exclusive culinary and/or sanitary facilities designed for habitation and used by one (1) person or one (1) family (household).

(12) Commercial Establishment. The term "commercial establishment" shall mean any house, building or property used for any purpose other than solely for habitation purposes, whether or not such purpose is for profit, and including but not limited to restaurants, hotels, cafes, clubs, dormitories, cafeterias, dealers in consumable food items and industrial or manufacturing entities of any nature whatsoever.

(13) Public Place. The term "public place" shall mean any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, spaces, grounds, buildings and property.

(14) Year. The term "year," for the purposes of refuse collection and removal as set forth herein, shall mean the twelve (12) month period beginning the first day of February of a calendar year and ending on January 31 of the next following calendar year.

(15) Recyclable Container. The term "recyclable container" shall mean those containers provided by the Borough which are specifically designated for the collection and storage of recyclable items.

(16) Garbage Fee. The term "garbage fee" shall mean the fee(s) established by the Borough for the collection and removal of refuse hereunder, which fee(s) may be amended by the Borough from time to time as it deems appropriate.

(17) Permit Fee. The term "permit fee" shall mean the fee(s) established by the Borough which shall be paid by private haulers, which fee(s) may be amended by the Borough from time to time as it deems appropriate.

ARTICLE II ADMINISTRATION

A. Residents. Persons residing within the Borough must utilize the Borough's refuse service. Those persons shall obtain a garbage permit sticker, for each premises from the Borough which may be obtained during the Borough's normally scheduled business hours.

B. Commercial Establishments. Commercial establishments may elect to contract with a licensed private hauler, or utilize the Borough's refuse service. Those commercial establishments desiring to use the Borough's refuse service may do so subject to the rates set forth hereinbelow. Commercial establishments desiring to contract with a private hauler, may do so provided written notice is given to the Street Commissioner prior to the commencement of such activity, and the private hauler complies with the terms of this Ordinance. Said written notice shall include the name and address of the commercial establishment as well as the name and address of the licensed private hauler.

C. Private Haulers.

(1) From the effective date of this Ordinance, no private hauler shall perform or engage in any refuse removal or collection of refuse within the Borough without first obtaining a permit from the Borough and paying a permit fee to the Borough, which is more specifically set forth hereinbelow.

(2) From the effective date of this Ordinance and for every succeeding year thereafter, all private haulers desiring to engage in or continue to engage refuse services in the Borough, shall, file a written application with the Borough, prior to commencing any activity, to obtain a permit to act as such in the Borough. Such application shall be in the form to be supplied by the Borough for that purpose which may be amended from time to time as the Borough deems appropriate.

(3) Permit Fee. All applications must be accompanied by the payment of the Permit Fee, which is more specifically defined hereinbelow.

(4) Filing of an Application. All applications must be filed at the Borough's principal place of business, in writing, a minimum of thirty (30) days prior to the commencement of any activity.

(5) Refusal to Accept/Revoke an Application. The Street Commissioner may refuse the acceptance of an application or revoke a permit if he/she, in his/her sole discretion, determines:

- (a) the application does not meet or comply with the terms and conditions set forth in this Ordinance;
- (b) the private hauler or its agents or subcontractors, do not meet or satisfy the terms or conditions set forth in this Ordinance;

- (c) the private hauler falsely answered any question or questions contained on the application, whether the application is new or a renewal;
- (d) the private hauler or its designated agents or subcontractors, have at any time violated or failed to comply with any local, county, state or other governing agency requirements; and
- (e) the private hauler or its agents, or subcontractors, were previously granted a Permit by the Borough or any other municipality, agency or entity, which was revoked and/or suspended for any reason.

(6) All permits shall be effective as of the date of issuance. All permits, regardless of the effective date of issuance, shall expire at midnight on January 31 of each year, unless the permit has been revoked or suspended prior thereto.

(7) Renewal. An individual or private hauler who has an unexpired permit, which has not been revoked or suspended during the current year, who files for the renewal of a permit for the next following year, need not complete another application form if the information supplied on the previous year's application is the same; provided, the individual or private hauler, submits the required permit fee on or before the beginning of the then next following year.

(8) Exceptions. A permit shall not be required by the Borough or any person who performs refuse services on behalf of the Borough.

(9) The Borough, by virtue of granting a permit to a private hauler, does not warrant or make any representation regarding the quality of any of the workmanship to be performed by or performed by said private hauler or as to the character, reputation or ability of any private hauler. The Borough will not assume any liability for the quality of any workmanship or lack thereof. Furthermore, the Borough will not be liable for any failure on its part to investigate any of the facts that may be falsely stated on any application. The private

hauler will indemnify and save harmless the Borough and its officials, officers, servants, and employees from any and all damages resulting from its activities.

ARTICLE III
REFUSE COLLECTION AND DISPOSAL

A. Refuse Collection and Disposal.

(1) All refuse accumulated in the Borough to be collected, conveyed and disposed of by the Borough and/or its contracted agent, shall be paid for, as provided in the Schedule of Fees which is more specifically set forth hereinbelow, by the person producing the refuse, or responsible for the existence or disposal thereof or for whom such refuse is removed. It shall be the specific responsibility of the owner of any residence, or the owner who leases said residence or any portion thereof to persons as tenants who occupy a separate and distinct habitable dwelling unit to procure the necessary garbage permit sticker for each and every of said dwelling units or, in the case of a commercial establishment, to secure the necessary permit for each and every one of its premises.

(2) It shall be unlawful for any person to collect, convey over any public property within the Borough or dispose of, any refuse accumulated within the Borough without first obtaining a permit from the Borough. However, this Ordinance shall not prohibit the actual producers of refuse, or the owners of the premises upon which refuse has accumulated, from personally collecting, conveying and disposing of such refuse, if such producers or owners comply with all regulations for collection, conveyance and disposal prescribed by this Ordinance, or made by Council under the terms hereof; and provided further, that private haulers of refuse from outside of the Borough shall have the right to haul such refuse over public property within the Borough, if such private haulers comply with the provisions of this Ordinance with respect to obtaining a permit from the Borough, the maintenance of their

equipment and vehicles, the operation of such equipment and vehicles, and also as to the disposal of such refuse.

(3) The collection and disposal of refuse in the Borough shall be administered by the Borough's Street Commissioner under the supervision of the Borough Council. The Street Commissioner shall have the authority to make regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection and disposal as he/she may deem appropriate, and to change and modify the same after notice as required by law, provided that such regulations are not contrary to the provisions hereof. An aggrieved person shall have the right to appeal against any regulation made by the Street Commissioner to the Borough Council, which may confirm, modify or revoke any such regulations.

(4) Persons who desire to dispose of waste material not included in the definition of refuse, and private haulers who desire to haul over public property within the Borough, shall use a water tight vehicle provided with a water tight cover and so operate as to prevent offensive odors from escaping therefrom and refuse from being blown, dropped or spilled. Such disposal shall be made outside of Borough limits, unless otherwise expressly authorized by Borough Council. The Borough shall have the authority to permit disposal of such material to the landfill provided the fee as provided in the Schedule of Fees, set forth below, is paid. The Street Commissioner shall have the authority to make other reasonable regulations concerning individual collection and disposal and relating to the hauling over public property within the Borough by private haulers as he/she deems appropriate, subject to the right of appeal as set forth above.

(5) Ownership of refuse material set out for collection shall be vested in the Borough; the ownership of all material placed at a landfill shall be vested in the owner of said landfill.

B. Pre-Collection Practices.

(1) Separation of Refuse. Garbage, ashes, and rubbish shall be placed and maintained in separate plastic garbage bags, the capacity of which shall not exceed thirty-three (33) gallons.

(2) Preparation of Refuse.

- (a) All garbage before being placed in plastic bags for collection shall have drained from it all free liquids.
- (b) All rubbish shall be drained of liquid before being deposited for collection.
- (c) All cans and bottles which have contained food shall be thoroughly rinsed and drained before being deposited for collection.
- (d) Tree trimmings, hedge clippings and similar material shall be cut to a length not to exceed four (4) feet, and shall be securely tied in bundles not more than two (2) feet thick before being deposited for collection.

(3) Refuse Containers.

- (a) Garbage receptacles shall be plastic garbage bags, or, such other suitable containers approved by the Street Commissioner, and must be water tight and closed tightly.
- (b) No person shall use, as a receptacle for garbage, any plastic garbage bag having the capacity of more than thirty-three (33) gallons nor thirty (30) pounds in weight.
- (c) Ash receptacles shall be of metal and have a capacity of not more than thirty (30) gallons.
- (d) Rubbish receptacles shall be of a suitable kind, which can be easily handled by one (1) man, such as a plastic garbage bag.

- (e) All refuse receptacles shall be provided by the owner, tenant, lessee or occupant of the premises, at his/her/its own cost and expense, except for recyclable containers which shall be provided by the Borough.
- (f) All refuse receptacles shall be kept as sanitary as possible and shall be thoroughly cleansed by the owner, tenant, lessee or occupant of the premises after refuse collection.
- (g) All refuse receptacles shall be maintained in good condition. Any receptacle that does not conform to the provisions of this Ordinance or that may have ragged or sharp edges or any other defect which may impede or injure the person collecting the contents thereof shall be promptly replaced upon notice from the Borough. Failure to comply may be deemed as a violation of this Ordinance and additionally may result in the Borough's refusal to collect such refuse, or the removal of the defective receptacle as refuse.

(4) Storing of Refuse.

- (a) No person shall place any refuse in any street, alley or other public place, or upon any private property whether owned by such person or not, within in the Borough, except it may be placed in proper receptacles for collection, or unless otherwise under an express approval granted by the Borough Council. No person shall throw or deposit any refuse in any stream or other body of water.
- (b) Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulations of refuse within thirty (30) days after the effective date of this Ordinance shall be deemed a violation of this Ordinance and subject to the remedial action and penalties hereinafter prescribed.
- (c) It shall be unlawful for any person, other than the occupants of the premises on which refuse receptacles are stored or the private hauler, to remove the covers of or any contents of refuse receptacles.

(5) Points of Collection.

- (a) Refuse receptacles shall be placed for collection at ground level on the property, not within the right-of-way of a street or alley and accessible to and not more than ten (10) feet from the side of the street or alley from which collection is made.

(b) Owners of dwellings with five (5) or more units of occupancy within the Borough, at the option of the owner(s) and at the sole cost and expense of the owner(s), shall have a private hauler receptacle placed for collection on the property, not within the right-of-way of a street or alley and accessible to and not more than ten (10) feet from the side of the street or alley from which collection by the private hauler is made.

(6) Collection Practices.

(a) Frequency of Collection.

- (i) Refuse will be collected at least once each week. Residents shall place plastic garbage bags or such other suitable containers approved by the Street Commissioner, curbside within twenty-four (24) hours of the collection date.
- (ii) Hotels, restaurants and such other businesses and institutions, as it deems necessary, may enter into an agreement with the Borough or a private hauler for a greater frequency of collection. Where necessary to protect the public health, the Street Commissioner may require that more frequent collections should be made.

(b) Limitation of Quantity.

It is the intent of this Ordinance that the reasonable accumulation of refuse of each family residence and community establishment for the collection period will be collected by the Borough for the standard fees set forth hereinbelow. The Street Commissioner may refuse to collect unreasonable amounts or to make an additional charge for such amounts.

(c) Special Refuse Problems.

- (i) Contagious Disease Refuse. The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the State Health Officials and the Street Commissioner. Such refuse shall not be placed in containers for regular collections.
- (ii) Inflammable or Explosive Refuse. Highly inflammable or explosive materials shall not be placed in containers for regular collections but shall be disposed of as directed by the Street Commissioner at the expense of the owner or possessor thereof.

ARTICLE IV
FEES

(1) The fee for the collection and disposal of refuse placed for collection at ground level and not more than ten (10) feet distance from the side of the streets or alleys from which collection is made shall be as follows:

- (a) One (1) Bag Per Week. The fee for one (1) bag of refuse per week for a single residence shall be Eighty Dollars (\$80.00) per year;
- (b) Two (2) Bags Per Week. The fee for two (2) bags of refuse per week for a single residence shall be One Hundred Thirty Five Dollars (\$135.00) per year;
- (c) Three (3) Bags per Week. The fee for three (3) bags of refuse per week for a single residence shall be One Hundred Seventy Five Dollars (\$175.00) per year; and
- (d) Four (4) Bags per Week. The fee for four (4) bags of refuse per week for a single residence shall be Two Hundred Fifteen Dollars (\$215.00) per year.
- (e) Extra Bags. The fee for extra bags of garbage shall be Two Dollars (\$2.00) for each extra bag.
- (f) Delinquent Fees. All fees shall be considered delinquent if not paid on or before January 31 of each calendar year. All delinquent accounts shall be subject to discontinuance of services without notice. The Street Commissioner shall discontinue all refuse collection service to all delinquent accounts, unless he/she specifically directs otherwise. Service shall be resumed thereafter only upon the payment of the accumulated fees for the period of collection and the period of non-collection, plus Ten Dollars (\$10.00), and in the event payment is delinquent as of March 1 of any calendar year, the sum of Twenty Dollars (\$20.00), unless the Street Commissioner specifically directs otherwise. The cessation of service hereinbefore authorized for non-payment of fees shall be in addition to the Borough's right to proceed for collection of such unpaid charges by an action in assumpsit or, at the election of the Borough, in any other manner provided by law for the collection of municipal claims.
- (g) Permit Fee. The fee for private haulers shall be One Hundred Dollars (\$100.00) per year. Further, said permits shall not be transferrable.

- (h) Partial Years. The Borough shall not pro-rate any garbage or permit fee after the first day of the then current year. Accordingly, said applicants shall pay the same fees as if the application was submitted on or before the first day of the then current year.
- (i) Method of Payment. All fees due hereunder shall be paid in the form of cash, certified or personal check made payable to "The Borough of Duryea".

ARTICLE V
PENALTIES

Any person, whether as principal, agent, or employee, violating or assisting in the violation of any of the provisions of this Ordinance or any regulation made by Borough Council or the Street Commissioner under the provisions hereof, shall, upon conviction thereof by the Magisterial District Justice, pay a fine of Two Hundred Fifty Dollars (\$250.00) for a first offense, a fine of Five Hundred Dollars (\$500.00) for a second offense and a fine of One Thousand Dollars (\$1,000.00) for a third or subsequent offense. In addition, such person shall purchase the appropriate refuse/garbage sticker from the Borough within five (5) business days of the date of conviction and in default of the payment of such fine and costs of prosecution and/or the failure to purchase the appropriate sticker, shall be imprisoned in the County Jail for a period of not more than five (5) days for each offense. After notice, each day's neglect to comply with the provisions of this Ordinance or any regulation, shall be deemed separate offenses and shall be subjected in all respects to the same penalty as the first offense, and separate proceedings may be instituted and separate penalties imposed for each day's offense after the first conviction. Further, said penalties shall be payable upon demand.

ARTICLE VI
INTENTION OF THE BOROUGH COUNCIL

It is the intention of the Borough Council that each separate provision of this Ordinance shall be independent of all other provisions herein and it is further the intention of the Borough

Council that if any of the provisions of this Ordinance are declared to be invalid, then and in that event, all of the other provisions hereof shall remain valid and in force.

ARTICLE VIII
REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ARTICLE IX
SEVERABILITY

The provisions of this Ordinance shall be severable and if any provision shall be deemed to be invalid for any reason, the validity of any of the remaining provisions of this Ordinance shall not be affected. It is hereby declared as the intention of the Council of the Borough of Duryea that this Ordinance would have been adopted had such invalidity not been included therein.

ARTICLE X
ENACTMENT

This Ordinance shall become effective immediately upon adoption by the Borough Council members.

ENACTED AND ORDAINED this 8th day of April, 2014 by the Duryea Borough Council in law session duly assembled.

BOROUGH COUNCIL

By: _____
MICHAEL McGLYNN,
Chairman

ATTEST:

LOIS MORREALE,
Borough Manager

KEITH MOSS,
Mayor