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BOROUGH OF NEW PROVIDENCE ORDINANCE 2010-122

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"AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY AMENDING THE RECYCLING ORDINANCE"

BE IT ORDAINED by the Borough Council of the Borough of New Providence that Chapter 213 of the Code of the Borough of New Providence is hereby amended as follows:

Section 1. Chapter 213 of the Code of the Borough of New Providence entitled "Recycling" shall be deleted and replaced and amended in its entirety so as to read:

Chapter_213

- I. Definitions
- II. Source Separation: Exemption from Source Separation Requirements
- III. Collection of Recyclable Materials
- IV. Residential Dwelling Compliance Requirements
- V. Commercial & Institutional Establishment Compliance Requirements
- VI. Compliance Requirements for Fairs, Parks, Concerts, Streets, and other Outdoor Events
- VII. New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties
- VIII. Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials
- IX. Enforcement
- X. Violations and Penalties
- XI. Severability, Effective Date

I. Definitions

Commercial and institutional establishments- means retail, wholesale, restaurants, taverns, schools, institutions - including government, warehouses, construction sites, factories, offices, etc., but specifically excludes Fairs, Parks, Concerts, and other Outdoor Events;

Commingled- means a combining of non-putrescible source-separated recyclable materials for the purpose of recycling;

Covered electronic device- shall constitute a subset of electronic waste which shall include only the following: a computer central processing unit of a laptop computer or desktop computer, a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones;

Designated recyclable materials- means those materials designated below that shall be source separated for the purpose of recycling. These materials include:

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A. Designated Materials for Residential Waste Generators:

- Aluminum, tin, steel
- Corrugated cardboard;
- Glass Containers
- Grass, Brush, Leaves
- Household Batteries (Button Cell, Rechargeable)
- Leaves
- Mixed Paper
- Motor Oil
- Motor Oil Filters
- Newspaper
- Office Paper
- Plastic Containers (#1 & #2)
- Tires
- Vehicle Batteries
- White Goods (air conditioners, refrigerators)
- Wood

B. Source Separation And Recycling Requirements For Commercial, Institutional and Industrial Waste Generators

- Aluminum, tin, & steel
- Computers and Peripherals
- Corrugated Cardboard
- Fluorescent bulbs
- Glass Containers
- Grass, Brush, Leaves
- Household Batteries (Button Cell, Rechargeable)
- Leaves
- Mixed Paper
- Masonry (asphalt, brick, block, concrete)
- Motor Oil
- Motor Oil Filters
- Newspaper
- Office Paper
- Plastic Containers (#1 & #2)
- Tires
- Vehicle Batteries
- White Goods (air conditioners, refrigerators)
- Wood

Electronic waste- shall mean a computer central processing unit and associated hardware including keyboards, modems, printers scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones;

Multifamily dwelling- means any building or structure, or complex of buildings in which

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three/five or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see NJSA 13:1E- 99.13a.) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C.55: 13A-1 et seq.);

Municipal Recycling Coordinator- means the person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder;

Municipal solid waste (MSW) stream- means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of Borough Of New Providence;

Recyclable material- means those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products;

Source-separated recyclable materials- means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling, **Source separation-** means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

Universal waste- shall mean a specific hazardous waste stream that has been designated by EPA or those waste streams identified in the New Jersey Universal Waste Rule (N.J.A.C. 7:26A-7). Only the following materials may be managed as universal waste:

- Rechargeable batteries and button cell batteries;
- Mercury containing equipment, including thermometers and thermostats;
- Pesticides;
- Fluorescent lamps (light bulbs);
- Electronic waste; and
- Oil-based paints and finishes.

II. Source Separation: Exemption from Source Separation Requirements

- A. **Mandatory source separation:** It shall be mandatory for all persons who are owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the municipality of the Borough of New Providence to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises and shall be placed separately at the curb or other location(s) in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Borough Of New Providence.

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- B. Exemptions: Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of the Borough of New Providence may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this Chapter, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

III. Collection of Recyclable Materials

The collection of recyclable material shall be in the manner prescribed as follows:

- A. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after 5:00 PM of the day immediately preceding the day of collection, but no later than 6:00 AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 PM of the day of collection.
- B. All receptacles or dumpsters shall be maintained in accordance with the Health Code of the Borough of New Providence.

IV. Residential Dwelling Compliance Requirements

- A. The owner and occupant of any residential property shall be responsible for compliance with this Ordinance. Citizens are responsible for source separating mandated items according to this municipal ordinance and delivering them for curbside collection. These items must be source separated; no mandated recyclables are permitted in the garbage put out for collection; no garbage is permitted in recyclables placed in the municipality's collection system.

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B. For multifamily units, the owner or manager is responsible for the following:

1. The property owner/management is responsible for ensuring that a recycling system is established and that it is operated in compliance with the requirements of this municipal ordinance. The property owner/management is responsible for setting up and maintaining the recycling system. The property owner/management is responsible for receiving and responding to Warnings, Notices of Violation, and Penalty Assessments and for correcting violations. The property owner/management will be expected to correct violations promptly and to make necessary direct contacts with residents.
2. Drop-off centers (bulk centers), if in use, must be established and maintained so that they are conveniently accessible to residents. Curbside collection may be made available in place of, or in conjunction with, these drop-off centers. The recycling system must provide for all designated recyclables in the residential waste stream. The recycling system may utilize separate containers for each recyclable material or it may provide for two or more materials to be placed in one container provided the recycling hauler can take the materials commingled. Containers must be clearly marked and the area neatly maintained. Container capacity must be adequate to hold the amount of materials generated between pick-ups. It must be clear to an inspector that the system is being serviced.
3. It must be clear that the system is being used properly by employees and tenants. There must not be garbage in the recycling containers or recyclables in the garbage containers. The property owner/management is responsible for resolving problems which may arise from the improper use of containers and for training employees and tenants to properly understand and use the recycling system.
4. Notification and collection rules shall be issued by the management to new tenants when they arrive and to all residents every three (3) months. Copies of these notices, or other proof of distribution of the notices, must be sent to the municipal recycling coordinator at the time of each mailing or distribution.
5. The property owner/management is responsible for arranging to have recyclables picked up and for resolving any problems with the transporter of recyclables.
6. The property owner/management must arrange to obtain documentation in order to report the tonnages of materials recycled at least once per year or else he/she must arrange to have the collector provide that documentation directly to the municipality. Arrangements with recycling companies or with haulers handling recyclables should include provisions for obtaining this information. Documentation must be maintained by the management. When the municipality provides recyclables collection service, reporting and proof are not needed.
7. Single/Dual Stream Recycling: Multi-family locations may opt to collect their

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recyclables in a single stream or dual stream (fiber, commingled) provided the Material Recovery Facility (MRF) that receives the material has certified that they have the ability to separate and maximize the capture rate of the designated recyclables. The UCUA Division of Solid Waste Management will compile and maintain an updated list of those facilities.

V. Commercial & Institutional Establishment Compliance Requirements

- A. The owner/operator (or in case of construction, the contractor), is responsible for ensuring that a recycling system is established and that it is operated in compliance with the requirements of this municipal ordinance. The owner/operator/contractor is responsible for setting up and maintaining the recycling system. The owner/operator/contractor is responsible for receiving and responding to Warnings, Notices of Violation, and Penalty Assessments and for correcting violations promptly.
- B. The recycling system must be established and maintained so that it is conveniently accessible to users. The recycling system must provide for all designated recyclables in the commercial/institutional waste stream. The recycling system may utilize separate containers for each recyclable material or it may provide for two or more materials to be placed in one container provided the recycling hauler can take the materials commingled. Containers must be clearly marked and the area neatly maintained. Container capacity must be adequate to hold the amount of materials generated between pick-ups. It must be clear to the inspector that the system is being serviced.
- C. The owner/operator/contractor must ensure that the system is being used properly by employees, customers or tenants. There must not be garbage in the recycling containers or recyclables in the garbage containers. The owner/operator/contractor is responsible for resolving problems which may arise from the improper use of containers and for instructing employees, tenants, and customers to understand and use the recycling system.
- D. If patrons, customers or employees are involved in the waste disposal process (i.e. fast food stores or company cafeteria), the recycling system must allow for this and include notice to customers as to their responsibilities.
- E. The owner/operator/contractor is responsible for arranging for recyclables to be removed from the premises and for assuring that they go into the recyclables market. The owner/operator/contractor may make arrangements to deliver the recyclables to the municipal collection system (drop-off center or curbside collection) if permitted by the municipality. Otherwise, the owner/operator/contractor is responsible for arranging to have recyclables picked up and for resolving any problems with the transporter of recyclables.
- F. The owner/operator/contractor must arrange to obtain documentation in order to report the tonnages of materials recycled at least once per year or else he/she must arrange to have the collector provide that documentation directly to the municipality.

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- G. **Single/Dual Stream Recycling:** Commercial and Institutional establishments may opt to collect their recyclables in a single stream or dual stream (fiber, commingled) provided the Material Recovery Facility (MRF) that receives the material has certified that they have the ability to separate out and maximize the capture rate of the mandated recyclables. The UCUA Division of Solid Waste Management will compile and maintain an updated list of those facilities.
- H. **Recycling Containers:** Commercial and Institutional establishments that have outdoor garbage containers for their customers must also have outdoor recycling containers. There must be sufficient recycling containers for any mandated recyclables in the commercial/institutional waste stream.
- I. All schools must provide written notice at the beginning of each school year, to all students, teachers, and other staff on the recycling requirements. The notice must contain a contact number to call if they observe any problems associated with recycling or if recycling is not properly occurring.
- J. **Single stream recycling of mixed classes of construction recyclables:** Construction/Demolition sites may opt to collect all recyclables in one container provided there are no other materials (including garbage) in that container. To qualify for this provision, recyclables must go to a Transfer Station/MRF that is properly permitted by the New Jersey Department of Environmental Protection and has certified that they have the ability to separate out and maximize the capture rate of the mandated materials. The specific materials that may be commingled together will be determined by the provisions in the receiving Transfer Station/MRF's permit.
- K. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

VI. Compliance Requirements for Fairs, Parks, Concerts, Streets, and other Outdoor Events

- A. The organizer/owner/contractor of the location must provide a recycling system that is operated in compliance with the requirements of this municipal ordinance.
- B. The recycling system must provide for any mandated recyclables generated at the event. It must be clear to an inspector that the system is being serviced: i.e., containers must be clearly marked and the area neatly maintained; there must not be garbage in the recyclables or recyclables in the garbage; container capacity must be adequate to hold materials between pick-ups. There must be sufficient recycling containers for any mandated recyclables generated at the event.
- C. The organizer/owner/contractor of the location is responsible for arranging for recyclables to be removed from the premises and for ensuring that they are

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taken to an approved recyclables market. The owner/operator/contractor may make arrangements to deliver the recyclables to the municipal collection system (drop-off center or curbside collection) if permitted by the municipality.

Otherwise, the owner/operator/contractor is responsible for arranging to have recyclables collected and transported and for resolving any problems with the transporter of the recyclables.

- D. The recycling system must be made accessible and available to all patrons, customers, and employees. Notice/signs must be provided to ensure all are aware of their responsibilities.
- E. The owner/operator/contractor of the location is responsible for obtaining pertinent documentation in order to report the tonnages of materials recycled at least once per year or else he/she must arrange to have the collector provide that documentation directly to the municipality.
- F. Single/Dual Stream Recycling: The recycling system may utilize separate containers for each recyclable material or it may provide for two or more materials to be placed in one container. Establishments may opt to collect their recyclables in a single stream or dual stream (fiber, commingled) provided the MRF that receives the material has certified that they have the ability to separate out and maximize the capture rate of the mandated recyclables.

VII. New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties (Pursuant to N.J.S.A. 13:1E-99.13a and 99.16c.)

- A. Any application to the planning board of the municipality of The Borough Of New Providence, for subdivision or site plan approval for the construction of 25 or more units of multi-family residential housing, single-family developments of 50 or more units, or any commercial, institutional, or industrial development proposal for the utilization of 1,000 square feet or more of land, must include a recycling plan component. This plan must contain, at a minimum, the following:
 - 1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and
 - 2. Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.
- B. Prior to the issuance of a Certificate of Occupancy by the municipality of the Borough of New Providence, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.

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- C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

VIII. Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.
- C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

IX. Enforcement

The Code Enforcement Official, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, the Housing Officer, the Union County Office of Health Management and the Union County Utilities Authority are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of, but is not limited to, sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

X. Violations and Penalties

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine or imprisonment pursuant to the general penalty provision as found at Section 1-15 of this Code not less than \$250, nor more than \$1000. Each day for which a violation of this Ordinance occurs shall be considered a separate offence.

Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling.

XI. Severability, Effective Date

- A. In the event that it is determined, by a Court of competent jurisdiction, that any provision or section of this Ordinance is unconstitutional, all other sections and provisions shall remain in effect.

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Section 2. This Ordinance shall take effect as provided by law.

