

BOROUGH OF VICTORY GARDENS SOURCE SEPARATION AND RECYCLING ORDINANCE

The Mayor and Council of the Borough of Victory Gardens, in the County of Morris and State of New Jersey, does ordain:

Section XVII, Chapter 3 and all of its parts entitled "Recycling" shall be deleted and replaced and amended in its entirety so as to read:

Chapter 17

Definitions

Source Separation, Exemptions

Collection of Recyclable Materials

Residential Dwelling Compliance Requirements

Non-residential Establishment Compliance Requirements

New Developments of Multi-Family Units or Commercial, Institutional or Industrial Properties

Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials

Enforcement

Violations and Penalties

Definitions

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

Designated recyclable materials - means those materials designated within the Morris County District Solid Waste Management Plan to be source separated for the purpose of recycling. These materials include:

Aluminum Cans - Cans made from aluminum that was manufactured to hold a serving of a beverage. Specifically omitted from this definition are aluminum foil and aluminum pie plates.

Glass Bottles and Jars - Bottles and jars made from glass including clear, brown and green glass or capped. A jar is defined as a wide mouthed container that can be capped. Caps and lids not included. Specifically omitted from this definition are drinking glasses, windows, mirrors, light bulbs, and anything made of Pyrex or ceramic.

Plastic Bottles (coded 1 and 2) - Plastic bottles coded to indicate that they are comprised of the specific types of plastic compounds (polymers) known as polyethylene, terephthalate

(PETE) or high density polyethylene (HDPE). A bottle is defined as a receptacle having a narrow neck and a mouth that can be corked or capped. Caps and lids not included. Any item made of plastic that is not a bottle, and any plastic bottle without one of the symbols shown to the left is specifically omitted from this definition. Empty bottles which contained hazardous materials, such as motor oil, antifreeze, etc. should not be recycled.

Steel (Tin) Cans - An air-tight container for the distribution or storage of goods, composed of thin, usually ferrous, metal. Examples are soup cans and tuna fish cans.

Newspaper - A publication containing news, information and advertising, usually printed on low-cost paper called newsprint. Newspaper may include glossy inserts which come with the paper, dependent upon the market conditions at the time.

Corrugated Cardboard - Shipping containers made with kraft paper linerboard and corrugated medium.

Mixed Paper - Various categories of recyclable paper including, but not limited to white and colored paper used in printers, photocopiers and fax machines, white and colored ledger paper, carbonless copy paper, construction paper, undeliverable mail, mailed promotional letters/advertisements/circulars, magazines, catalogues, envelopes, soft cover books.

Leaves - Vegetative material, typically generated in the autumn when they fall from trees and then are raked from residents' and/or commercial lawns.

Grass Clippings - Vegetative material generated when grass (lawns) are cut.

Brush - Branches, woody plants and other similar vegetative material. Leaves and grass do not constitute brush.

Natural Wood Waste - Logs, stumps, branches and other wood tree parts. Dimensional lumber is omitted from inclusion in this definition.

Oil-Contaminated Soil - Non-hazardous soil that contains petroleum hydrocarbons (gasoline, diesel, kerosene, jet fuel, #4 & #6 heating oils and certain other refinery products accordance with the standards set forth in N.J.A.C. 7:26.

Used Motor Oil - Motor oil from motor vehicles, lawn mowers, boats, etc., which has served its intended useful purpose.

Lead-Acid Batteries - Storage batteries in which the electrodes are grids of lead containing electrolyte is dilute sulfuric acid. These include starting batteries such as car batteries that deliver a short burst of high power to start the engine. In addition, they may include deep

cell batteries found on boats or campers used to power accessories like trolling motors, winches or lights.

Hazardous Dry Cell Batteries - Rechargeable batteries, such as nickel-cadmium, nickel-iron, nickel metal hydride, lithium ion, small sealed lead acid, etc. These are often used as substitutes for non-rechargeable batteries in standard sizes such as AAA, AA, C, D and 9V. Rechargeable batteries are commonly found in cordless tools, cellular and cordless phones, laptop computers, cameras remote controls, toys, etc. Also included in this definition are non-rechargeable batteries that are hazardous as defined by the Resource Conservation Recovery Act ("RCRA"), regardless of the RCRA exclusion of household waste from the definition of hazardous waste pursuant to 40 C.F.R. 261.4 (b). Non-rechargeable, hazardous batteries include older alkaline and carbon zinc batteries as well as silver oxide, mercury and magnesium button-type batteries, etc. It should be noted that domestically manufactured alkaline and carbon zinc non-rechargeable batteries made after circa 1994 eliminated mercury content to the point that they should not be considered RCRA hazardous and therefore are not included in this material category.

Metal Appliances - Appliances composed predominantly of metal, and may include stoves, washing machines and dryers, for example, if the appliance is predominantly metal. Also included are air conditioners, refrigerators and dehumidifiers if they are predominantly metal. If these appliances on the latter list contain refrigerants that are prohibited by the Clean Air Act from being knowingly vented, the refrigerant must be recovered accordingly.

Whole Tires* - Tires that are whole, not chipped into small pieces.

*Tires are allowed to be recycled and/or incinerated for energy recovery.;

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 three 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 person appointed by the municipal governing body to fulfill the requirements of the Morris County Solid Waste Management

Plan and the New Jersey Statewide Mandatory Source Separation and Recycling Act and those rules and regulations promulgated therefore,

Municipal Recycling Enforcement Coordinator - means the person or persons named by the municipality who shall fulfill the responsibilities with respect to recycling enforcement coordination detailed in the March 2007 Morris County Solid Waste Management Plan and the New Jersey Statewide Mandatory Source Separation and Recycling Act and those rules and regulations promulgated therefore.

Municipal Recycling Enforcement Coordinator - means the person or persons named by the municipality who shall fulfill the responsibilities with respect to recycling enforcement coordination detailed in the March 2007 Morris County Solid Waste Management Plan Amendment Section 8.6. This person may be the same person designated as the Municipal Recycling Coordinator.

Municipal solid waste (MSW) stream - means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of Victory Gardens which is not bulky waste or construction and demolition debris;

Recyclable material - means those materials which would otherwise become solid waste, and mainstream in the form of raw material of 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;

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 Victory Gardens, to separate designated recyclable materials from the solid waste. Designated recyclable material shall be deposited separated and apart from other solid waste generated by the owners, tenants, or occupants of such premises. Designated recyclable materials shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the (municipality or department within the municipality)

- B. Exemptions: Pursuant to N.J.S.A. 13:1E-99.16.6.(d), the governing body of a municipality 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 their 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 municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

Acceptance of the Municipal Solid Waste Recycling Goal

As set forth in N.J.S.A. 13:1E-99.13.3.b.(4)©, Victory Gardens accepts the goal of 50% recycling of municipal solid waste by 2015 and shall monitor its level of recycling and solid waste disposal and shall strive to achieve the recycling of 50% of the municipal solid waste generated within its borders.

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 occupants 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 5:00PM of the day immediately preceding the day of collection, but no later than 6:00AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00PM of the day of collection.

- B. All receptacles or dumpsters shall be maintained in accordance with the Health Code of the municipality of Victory Gardens.

Residential Dwelling Compliance Requirements

The owner of any property shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every six months during their occupancy.

Non-Residential Establishment Compliance Requirements

- A. All non-residential generators, including commercial, industrial and institutional establishments, of solid waste shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. All non-residential facilities shall report on an annual basis to the Municipal Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.
- D. 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.

New Developments of Multi-Family Residential Units or Commercial, Institutional or Industrial Properties (Pursuant to N.J.S.A. 13:1 E-99.13a and 99.16.6.c.)

- A. Any application to the planning board of the municipality of Victory Gardens, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial; institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:
- 1) A detailed analysis of the expected composition and amounts of solid waste and recyclable 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 Victory Gardens, 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.
- C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

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.

Enforcement

The Code Enforcement Official, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, the Housing Officer, and the Morris County Office of Health Management are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

Penalty for Non-compliance with Source Separation Requirement

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 not less than \$25, nor more than \$1,000. 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 program including any costs attendant to enforcing this ordinance. (Note - There is no County Plan Update reference.)

Severability, Effective Date

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. This Ordinance shall take effect 90 days from its adoption by the governing body.

Construction, Renovation and Demolition Debris Recovery Plan Ordinance

Chapter 18

Definitions

Constructions, Renovation, Demolition Debris Recovery Plan

Review of Debris Recovery Plan

Diversion requirement adjustment

Debris recover plan reporting requirements

Compliance with diversion requirement

Appeal to the Mayor or Council

Enforcement

Violations and Penalties

Definitions

Covered project-means a construction, renovation, or demolition project for which a building permit or a demolition permit is required, and for which a dumpster or roll off-container shall be placed on premises for the purpose of placement of solid waste materials.

Construction, Renovation and Demolition Debris Recovery Plan

A debris recovery plan shall be filed with the municipal recycling coordinator prior to the commencement of any activity for which municipal approval as further identified above. The debris recovery plan shall identify the types and estimated quantities of construction and demolition debris to be generated from the project, how each material will be managed, and the name of each facility or service provider that the entity will use to manage each material. The plan shall further detail how the applicant shall ensure that a minimum of 50% of the materials to be generated will be separated and recycled.

Review of Debris Recovery Plan

- A. **Approval:** A debris recovery plan shall be reviewed by the municipal recycling coordinator, and approved if it provides for all the information required by this Ordinance. An approved debris recovery plan shall be marked "Approved" and returned to the owner of the entity which submitted the plan.
- B. **Denial:** A debris recovery plan shall not be approved if it does not provide all of the information required by this Ordinance. If a debris recovery plan is not approved, the owner of the entity which submitted the plan, shall be notified in writing that the plan has been rejected, including the reasons for the rejection. In order to obtain the building or demolition permit sought, the owner of the entity which will carry out the construction, renovation, or demolition project shall make the required changes and resubmit the debris recovery plan to the municipal recycling coordinator.

Diversion requirement adjustment

- A. **Application:** If the owner of an entity carrying out a covered project experiences circumstances that makes it infeasible to comply with the diversion requirement cited in this Ordinance, the owner of the entity may apply for an adjustment. The owner shall indicate in writing why it is infeasible to divert 50% of the materials being generated from the covered project and specify what percentage of diversion could be achieved. Increased costs to the owner of the entity carrying out the covered project will not be an acceptable justification for an adjustment.

- B. **Review:** The municipal recycling coordinator shall review the information supplied by the owner. If warranted the municipal recycling coordinator shall attempt to contact the owner to discuss possible ways of meeting the diversion requirement.
- C. **Granting of an adjustment:** If the municipal recycling coordinator determines that it is infeasible for the entity carrying out a covered project to divert 50% of the generated C&D debris from the covered project, the percent of diversion required shall be adjusted. The owner shall be notified in writing of the adjusted diversion requirement. The owner of the entity carrying out the covered project shall be required to divert the percent of C&D debris required by the adjustment.
- D. **Denial of adjustment:** If the municipal recycling coordinator determines that it is feasible for the owner of an entity carrying out of covered project to meet the diversion requirement cited in this Ordinance, the owner shall be notified in writing of the denial of the diversion requirement adjustment.

Debris recover plan reporting requirements

Documentation: Upon completion of the covered project, but before the final inspection, the owner of the entity carrying out a covered project shall submit in person or by certified mail to the municipal recycling coordinator, the documentation required to demonstrate that the applicant has met the diversion requirement. The required documentation shall include the following:

- 1) A completed debris recovery report, signed by the owner of the entity carrying out a covered project, indicating the quantity of each material generated during the covered project diverted or disposed,
- 2) Receipts from all facilities or service providers utilized to divert and dispose materials generated during the covered project, and
- 3) Any additional information that the owner of the entity carrying out the covered project believes is relevant to determining compliance with the diversion requirement.

Compliance with diversion requirement

The municipal recycling coordinator shall review the information submitted pursuant to this Ordinance and determine whether the owner of the entity carrying out the covered project has complied, or failed to comply with the diversion requirement. The determination regarding compliance will be provided to the owner of the entity carrying out the covered project in

writing.

Appeal

An owner of the entity carrying out the covered project may appeal a determination of failure to comply under this Ordinance to the Mayor or Council within 30 days of the decision or determination. The appeal shall be in writing and shall state the facts and basis for the appeal. A decision by Mayor and Council shall be final.

Enforcement

The Code Enforcement Official, the Police Department, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, and the Housing Officer are hereby individually and severally empowered to enforce the provisions of this Ordinance. The respective enforcing official may, in his or her discretion, post warning stickers for a first offense. An inspection may consist of dumping and opening of solid waste bags or containers to detect, by sound or sight, the presence of any recyclable material.

Violations and Penalties

Any person, corporation, occupant, or entity that violates or fail 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 not less than \$250, nor more than \$1000.

Severability; Effective Date

If 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. This Ordinance shall take effect immediately.

ATTEST:

Deborah Evans
DEBORAH EVANS, Borough Clerk

BOROUGH OF VICTORY GARDENS

Betty Simmons
BETTY SIMMONS, Mayor

INTRODUCED: 10/14/08

I hereby certify that the above is a true copy of the ordinance passed by the Mayor and Council of the Borough of Victory Gardens, Morris County at a regular meeting held on the 12th day of NOV., 2008.

Deborah Evans
DEBORAH EVANS, Borough Clerk

ADOPTED: 11/12/08
DRAFT PREPARED BY: M.J.M.