

ORDINANCE NO. 15027

FILE OF CITY COUNCIL

BILL NO. 61 - 2012

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October 3, 2012

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AN ORDINANCE

Amending Article 1131, Municipal Waste Storage, Collection and Disposal by banning the disposal of covered electronics and televisions in landfills and requiring these devices to be recycled in accordance with state law pursuant to the Covered Device Recycling Act (Act 108), and changing the exemption to parallel that of the Pa. Property Tax and Rent Rebate Program.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That Article 1131.01 Definitions be amended to include the following definitions and appropriate renumbering:

**1131.01 DEFINITIONS**

The following words and phrases when used in the ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

1. **Applicant** means a person desirous of being authorized as a "Collector." (12703 §1 5/7/86)
2. **Bulk Item** is any specific municipal waste item that does not fit in a 32 gallon trash can or in a 30 gallon trash bag, which includes but is not limited to furniture, mattresses, etc. (14373 §1 3/16/06)
3. **Center City** means that section of Allentown that is bounded on the east by the Jordan Creek, on the north by Tilghman Street, on the west by 11th Street and on the south by the Little Lehigh Creek. (13219 §1 10/7/93)
4. **City Curbside Collection Program** is the authorized collection, removal, transportation and disposal of municipal waste and recycling generated from eligible single family dwellings, rooming units, group homes, multi-family dwellings and commercial and institutional establishments who pay the annual Municipal Waste and Recycling Fee to the City of Allentown for this service. (14271 §1 3/3/05)
5. **Collector** means any person, firm or corporation duly authorized to collect and transport municipal waste within or from the City of Allentown. (12703 §1 5/7/86; 13937 §1 11/21/01; 14373 §1 3/16/06)
6. **Construction material** is any material that is a result of new construction, renovation or remodel of a structure of dwelling such as but not limited to lumber, carpeting, paneling, plaster board, ceiling tiles, kitchen cabinets, etc., concrete, brick, stone, rock and similar material is not considered to be construction material. (14373 §1 3/16/06)

7. **Container** is a rigid, durable, water tight, lidded vessel in which municipal waste and recycling is stored until collection. (14373 §1 3/16/06)

8. **Consumer** as defined in the Pennsylvania Covered Device Recycling Act 108 as "An occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or small business use. For purposes of this definition, a small business is an entity that is independently owned or operated, employs 50 or fewer people, has purchased or leased a covered computer device from a computer manufacturer or retailer and, but for the program established under this act, would not otherwise have access to electronic recycling programs."

8. **9. Contractor** means the person, firm or corporation that has been authorized by the City and by contract to collect, transport and dispose of municipal solid waste from within the City of Allentown. (12703 §1 5/7/86; 13937 §1 11/21/01)

9. **10. Commercial establishment** means any establishment engaged in a non- manufacturing or non-processing business, including, but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters. (12703 §1 5/7/86)

11. **Covered devices** as defined in the Pennsylvania Covered Device Recycling Act 108 of 2010 (CDRA) include desktop computers, laptop computers, computer monitors, computer peripherals and televisions.

40. **12. Disposal** means the incineration, deposition, injection, dumping, spilling, leaking, or placing of municipal waste into or on the land or water in a manner that the waste or a constituent of the waste enters the environment, is emitted into the air, or is discharged to the waters of the Commonwealth of Pennsylvania. (12703 §1 5/7/86)

44. **13. Disposal site** means any site, facility, location, area, or premises to be used for the disposal of municipal wastes. (12703 §1 5/7/86)

42. **14. Dwelling unit** means a group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating for the exclusive use of the occupants thereof, including mobile homes or house trailers. (13409 §1 7/19/96; 14373 §1 3/16/06)

43. **15. Eligible Entities** means any single family dwelling, multi-family dwellings, rooming units, or commercial or institutional establishments that receive City Contractor service in accordance with the criteria contained herein. (13219 §1 10/7/93; 13937 §1 11/21/01)

44. **16. Garbage** means all animal and vegetable wastes attending or resulting from the handling, dealing, storing, preparation, cooking and consumption of foods. (12703 §1 5/7/86)

45. **17. Group home** means residential clients and attendant (24 hours or less) staff, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based upon an intentionally structured relationship providing organization and stability. (13289 §1 11/3/94)

46. **18. Hazardous Waste** means any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

a. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; and (12703 §1 5/7/86)

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed. (12703 §1 5/7/86)

17. **19. Household Hazardous Waste** (HHW) is waste which would be chemically or physically classified as a hazardous waste but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: Toxic; Flammable; Reactive; or Corrosive. HHW consists of numerous products that are common to the average household such as: Pesticides and herbicides, cleaners, automotive supplies, paints, and acids. (13614 §1 11/20/97)

18. **20. Hotel** means an establishment having over twenty (20) permanent bedrooms for the use of transient guests. (13289 §1 11/3/94)

19. **21. Industrial establishment** means any establishment engaged in manufacturing or processing, including, but not limited to, factories, foundries, mills, processing plants, refineries, and the like. (12703 §1 5/7/86)

20. **22. Institutional establishment** means any establishment engaged in service to persons including, but not limited to hospitals, nursing homes, orphanages, schools, non-profit organizations, churches and universities. (12703 §1 5/7/86; 13289 §1 11/3/94)

21. **23. Intended to be used.** A building, structure, unit or part thereof is "intended to be used" for the purposes of this Code; in accordance with the use indicated in the Lehigh County Property Tax Assessment records; or the most recent records pertaining to the use on file in any department of the City; or in the absence of any such records; in accordance with the use determined by the City to be the most appropriate for the building, structure, unit or part thereof. (13289 §1 11/3/94)

22. **24. Management** means the entire process or any part thereof of storage, collection, transportation, processing, treatment, and disposal of municipal wastes by any person engaging in such process. (12703 §1 5/7/86)

23. **25. Multi-family dwellings** means any building under one roof which contains two (2) or more complete dwelling units. (12703 §1 5/7/86; 12903 4/5/94)

24. **26. Municipal waste** means any garbage, refuse, industrial lunchroom or office waste, and other material including solid, liquid, semisolid, or contained gaseous material resulting from operation or residential, municipal, commercial, or institutional establishments or from community activities and which are not classified as residual waste or hazardous waste as herein defined. The term does not include source separated recyclable materials, or yard waste, or covered devices. (12703 §1 5/7/86; 13040 §1 4/3/91)

25. **27. Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action. (14271 §1 3/3/05)

26. **28. Person** means any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution and agency, or any other

legal entity whatsoever which is recognized by law as being subject to such rights and duties. (12703 §1 5/7/86)

27. 29. Processing means any technology used for the purpose of reducing the volume or bulk of municipal waste or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, incinerators, recycling facilities and resource recovery facilities. (12703 §1 5/7/86)

28. 30. Public Officer means any police officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances. (14271 §1 3/3/05)

29. 31. Recyclable material means a material in municipal waste, which can be collected, separated and/or processed into a commodity to replace virgin materials in the manufacturing of new materials or products. (13040 §1 4/3/91; 13937 §1 11/21/01)

30. 32. Regular means at least three or more times per month. (12703 §1 5/7/86)

31. 33. Refuse means the collective term applying to all garbage, ashes, leaves, and grass trimmings from residential, municipal, commercial or institutional premises. (12703 §1 5/7/86)

32. 34. Residual waste means any discarded material or other waste including solid, semisolid or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations excluding municipal water and sewer operations. (12703 §1 5/7/86)

33. 35. Rooming unit means any room or groups of rooms forming a single habitable unit used or intended to be used for living and sleeping only. (13289 §1 11/3/94)

34. 36. Solid waste means any waste, including but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials. (Pennsylvania Solid Waste Management Act 97, Section 103) (12703 §1 5/7/86)

35. 37. Source separate means to separate recyclable materials from the municipal waste stream at the point of waste generation. (13040 §1 4/3/91)

36. 38. Storage means the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal as such waste. (12703 §1 5/7/86; 14373 §1 3/16/06)

37. 39. Transportation means the off-site removal of any municipal waste at any time after generation. (12703 §1 5/7/86; 14373 §1 3/16/06)

38. 40. Violation Ticket is a form issued by a police officer or public officer to a person who violates a provision of this Article. The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator. (14271 §1 3/3/05)

39. 41. Yard Waste means leaves, garden residues, grass clippings, shrubbery and tree trimmings and similar materials. (13030 §1 4/3/91)

SECTION TWO: That Article 1131.04 Storage, Placement and Collection of Municipal Waste be amended to include the following:

### **1131.04 STORAGE, PLACEMENT AND COLLECTION OF MUNICIPAL WASTE**

#### **A. General**

1. It shall be the duty of every owner of property and every person occupying any dwelling unit, premises or place of business within the City of Allentown where municipal waste is produced and is accumulated, by his own expense and cost, to provide and keep at all times, a sufficient number of containers to hold all municipal wastes which may accumulate during the intervals between collection of such municipal waste by an authorized collector.

2. The containers shall be plainly and legibly marked with the participant's address and apartment number, if any, excluding plastic bags. (13915 11/21/01)

3. It shall be the duty of every owner of multi-family dwellings, rooming units, and any other residential units included in City collection except owner-occupied single family dwellings to permanently post and maintain in each unit the Trash and Recycling procedures issued by the Bureau of Recycling and Solid Waste. (13289 §1 11/3/94)

#### **B. Storage and Placement by Entities Eligible for City Contract Collection (13289 §1 11/3/94; 13937 §1 1/21/01)**

1. **Containers:** All municipal waste, except bulk items (e.g. furniture, mattresses, carpeting, cabinets, etc.), generated by owners and/or the occupants of eligible entities shall be placed in containers for collection by an authorized collector. (14373 §1 3/16/06)

a. The containers shall be durable, water tight, and made of metal or rigid plastic. The containers shall have tightly fitting covers that remain in use and shall be kept clean. Each container shall not weigh more than seventy (70) pounds when filled. (13937 §1 11/21/01)

b. Plastic bags may be used as municipal waste containers, at curbside for City Curbside collection, provided they are sealed to prevent scattering of their contents and do not contain any rips, tears or punctures. Plastic bags of municipal waste shall not weigh more than forty (40) pounds when filled. (13762 §1 7/22/99; 14373 §1 3/16/06)

c. Cardboard boxes may not be used as municipal waste containers. (14373 §1 3/16/06)

#### **2. Storage of Containers:**

a. No person shall store a container, as defined above, in front of the property's main structure (including on the front porch), except when it is placed at the curblin or street for collection, as described below.

b. Furthermore, plastic bags are not to be stored anywhere on the exterior of the property except in approved containers prior to being placed at the curblin or street for collection, as described below. (13762 §1 7/22/99; 14373 §1 3/16/06)

c. Property owners of multi-family dwellings included in City Curbside Collection must provide a location on their property for the storage of trash and recycling in between collections. Storage must be in compliance with all City of Allentown Ordinances and must not create a public nuisance or vector control issues. Exceptions and alternate storage locations may be subject to review and approval by

### **3. Placement and Removal of Containers:**

a. Only municipal waste generated at the entity included in the City Curbside Collection Program by the owner or occupants of said entity may be placed out for collection in front of that entity. It shall be a violation of this Ordinance to place, or cause to be placed, municipal waste generated at a different location at an entity included for City collection; this may constitute illegal dumping and a violation of the Anti-Litter Ordinance. (14373 §1 3/16/06)

b. All municipal waste containers shall be placed at the curblin e or street directly in front of the included residential entity where the municipal waste was generated not before 5:00 PM, and prior to 10:00 PM, only on their designated nights of collection. (13289 §1 11/3/94; 13614 §1 11/20/97; 13762 §1 7/22/99; 14373 §1 3/16/06; 14688 §1 3/12/09)

c. All municipal waste containers shall be placed at the curblin e or street directly in front of the included commercial or institutional entity where the municipal waste was generated, not before 5:00 PM and prior to 10:00 PM, only on their designated nights. (14373 §1 3/16/06)

d. All containers shall be removed from the street or curblin e as soon as practicable, within 12 hours, after collection. (13289 §1 11/3/94; 13614 §1 11/20/97; 13762 §1 7/22/99; 14373 §1 3/16/06)

e. All material shall be placed at the curblin e in a manner as not to result in spilled or scattered trash or litter on public or private property. All material placed out for collection shall be the responsibility of the property owner, responsible agent or occupant until it is collected by the Contractor. (14373 §1 3/16/06)

f. No municipal waste may be set out at the curblin e or in the public right-of-way for collection by a privately contracted Collector without written approval by the Bureau of Recycling and Solid Waste. (14373 §1 3/16/06)

### **4. Municipal Waste Limits**

The City of Allentown hereby establishes limits to the quantity and nature of municipal waste, bulk items and construction material placed out by entities included in the City Curbside Collection Program. It shall be a violation of this ordinance to exceed or violate the limits as set forth below:

#### **a. Per Collection Night Maximum**

No more than five (5) thirty (30) gallon trash bags, each weighing no more than forty (40) pounds, or two (2) thirty-two (32) gallon trash container, each weighing no more than seventy (70) pounds per container may be placed out for City Curbside Collection by entities included in City Curbside Collection.

#### **b. Second Collection Night Allowances**

Only on the second collection night of a designated collection zone, i.e. Wednesday, Thursday or Friday, may an eligible entity place out for collection one bulk item (furniture, mattress, etc.) or forty (40) pounds maximum of construction material (carpeting, lumber, etc.). The construction material may not exceed four (4) feet in length and must be in an acceptable container or bundled. A fee of Fifteen Dollars (\$15) for each additional bulk item is hereby established and must be paid to the Bureau of Recycling and Solid Waste prior to collection. (14373 §1 3/16/06)

c. Tires, vehicle parts containing fluids, non-recyclable vehicle parts, liquid paint and hazardous wastes may not be placed at the curb for City Curbside Collection. Concrete, brick, stone, rock or any other material that may damage compacting vehicles, as determined by the Bureau of Recycling and Solid Waste, is prohibited from City Curbside Collection. (14271 §1 3/3/05; (14373 §1 3/16/06)

**5. Collection of Source Separated Recyclable Materials and Yard Waste:** The collection of source separated recyclable materials and yard waste is otherwise regulated by City ordinance. It shall be a violation of this ordinance for any person to place any designated recyclable material or yard waste in containers which also contain municipal waste. (13040 §2 4/3/9; 13038; 13219 §1 10/7/93; 13937 §1 11/22/01; (14373 §1 3/16/06)

#### 6. Prohibition of Covered Devices from Municipal Solid Waste

No person may dispose of a covered device, or any of its components, with municipal solid waste. These devices and their components must be properly recycled through an electronics collection program and may not be taken to, nor accepted by, landfills or other solid waste disposal facilities for disposal. It shall be a violation of this ordinance for any person or consumer to dispose of any covered device with municipal solid waste.

### **SECTION THREE: That Article 1131.02 Authorization of City Contractor(s); Scope of Work; Fee, C, 2, be amended to read as follows:**

~~2. Exoneration of Rebates for Certain Eligible Senior Citizens from for payment of the Municipal Waste and Recycling Fee and other residents from paying the \$35 increase in the calendar year 2012.~~ (13614 §1 11/20/97; 1/24/2012 §1 14965)

a. All bona fide residents of the City of Allentown who are sixty five (65) years of age or over shall be eligible for ~~entitled to exoneration from~~ a rebate of the payment of this fee on their principal place of residence provided that:

1. Such residence is a single family dwelling, owned and occupied by the claimant.

2. A request for ~~exoneration~~ a rebate shall be filed with the ~~Bureau~~ Department of Finance on such form as prescribed by that ~~Bureau~~ Department for such purpose. The request for rebate shall be filed by June 30 of the current year for a rebate of the Municipal Waste and Recycling Fee paid for the previous calendar year.

3. The total household income from all sources does not exceed \$15,000.00.

~~b. All bona fide residents of the City of Allentown who are sixty five (65) years of age or over shall be eligible for exoneration from payment of the thirty-five dollar (\$35) increase to this fee on their principal place of residence provided that:~~

~~1. Such residence is single family dwelling, owned and occupied by the claimant.~~

~~2. A request for exoneration shall be filed with the Bureau of Finance on such form as prescribed by that Bureau for such purpose.~~

~~3. The total household income from all sources is between \$15,000.00 and \$19,999.~~

~~4. This exoneration is for calendar year 2012.~~

~~c. All bona fide residents of the City of Allentown shall be eligible for exoneration from payment of the thirty-five dollar (\$35) increase to this fee on their principal place of residence provided that:~~

~~1. Such residence is a single family dwelling, owned and occupied by the claimant.~~

~~2. A request for exoneration shall be filed with the Bureau of Finance on such form as prescribed by that Bureau for such purpose.~~

~~3. The total household income from all sources does not exceed \$19,999.~~

~~4. This exoneration is for calendar year 2012~~

~~d. b.~~ The Bureau Department of Finance may require such evidence or information as it deems necessary or appropriate in determining eligibility for exoneration in accordance with this section.

~~e. c.~~ Any information gained by any official, agent or employee of the City, as a result of any claim, investigations, or hearings required or authorized by this ordinance shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this ordinance or as otherwise provided by law.

~~f. d.~~ False or untrue statements shall be a violation of this Ordinance. (13219 §1 10/7/93) (12903 §1 4/5/89; 13289 §1 11/3/94; 13289 §1 11/3/9; 14965 §1 1/24/12)

SECTION FOUR: That this Ordinance will take effect ten (10) days after final passage.

SECTION FIVE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

**Amendment:**

The Bureau of Revenue and audit would like to adopt the same format as the Pa Property Tax or Rent Rebate Program by providing for a rebate applicable to the appropriate calendar year. This refers to Section Three of the bill.

Keep the section on storage of containers as is, deleting the changes: No person shall store a container, as defined above, in front of the property's main structure (including on the front porch), except when it is placed at the curblin or street for collection, as described below.

**Amendment passed, 7 – 0**

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald	X	
Jeff Glazier	X	
Cynthia Y. Mota	X	
Ray O'Connell, VP	X	
Peter G. Schweyer	X	
Julio A. Guridy, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on October 17, 2012 and signed by the Mayor on November 1, 2012.



CITY CLERK

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

Bureau of Recycling & Solid Waste, Department of Public Works

- **Summary and Facts of the Bill**

1) The proposed change to the Municipal Waste Storage, Collection and Disposal, ARTICLE 1131, would ban the disposal of covered electronics and televisions in landfills and requiring these devices to be recycled in accordance with state law, Covered Device Recycling Act (Act108), effective January 24, 2013.

2) The second proposed change addresses the storage of trash and recycling containers if such storage creates a public nuisance.

- **Purpose**

- What does the Bill do – what are the specific goals/tasks the bill seek to accomplish

1) The bill adopts from state law the disposal ban on covered electronic devices from landfills in Pennsylvania and requiring covered devices to be properly recycled. Covered devices include: desktop computers, laptop computers, computer monitors, computer peripherals and televisions and contain hazardous materials.

2) The bill also seeks to address the problematic / public nuisance trash and recycling storage issues rather than prohibit all containers that are stored in the front of the property's main structure (including the front porch).

- What are the Benefits of doing this/Down-side of doing this

1) The City will be in compliance with the state law Act 108 that takes effect January 24, 2013.

2) It allows the SWEEP program to address the offensive public nuisance issues of trash and recycling container storage and allow those who maintain and keep their containers clean and sanitary, the flexibility to keep them at the front of their property or on the front porch.

- How does this Bill related to the City's Vision/Mission/Priorities

1) This Bill is in line with the Bureau of Recycling and Solid Waste's mission for the continual increase in recycling materials and decreasing the amount of materials landfilled.

2) The Bill allows for the continued enforcement of those public nuisance issues that affect the quality of life in Allentown.

- **Financial Impact**

- Cost (Initial and ongoing)

1) & 2) There is no cost for the implementation of these changes.

- Benefits (initial and ongoing)

- 1) As part of Act 108, the state is requiring manufacturers to develop and pay for recycling programs to accept covered devices by certified electronic recyclers at no cost to the consumer. The Bureau of Recycling & Solid Waste is exploring options of becoming a collection site to accept these covered devices.

- 2) The SWEEP program will continue to issue violation tickets for violations of this section of the ordinance.

- **Funding Sources**

Make sure bill gives specific accounts if money is moved around

No additional funding is necessary.

- **Priority status/Deadlines, if any**

- 1) The state disposal ban takes effect January 24, 2013.

- 2) There are no deadlines associated with this change.

- **Why should Council unanimously support this bill?**

- 1) To adopt legislation in accordance with the state law and in keeping with the City's recycling mission.

- 2) It will allow for efficient and effective enforcement of these public nuisance problems.