

Chapter 118
SEWERS

ARTICLE I
Holding Tanks

- § 118-1. Purpose.
- § 118-2. Definitions.
- § 118-3. Use of holding tanks.
- § 118-4. Application for permit.
- § 118-5. Removal of holding tank.
- § 118-6. Requirements for holding tank.
- § 118-7. Inspections and certification of pumping.
- § 118-8. Appeals.
- § 118-9. Violations and penalties.

ARTICLE II
Sewer Construction and Maintenance

- § 118-10. Granting of authorization.

- § 118-11. Rights of easement.

ARTICLE III
Sewer Connections

- § 118-12. Definitions.
- § 118-13. Mandatory sewer connection.
- § 118-14. Connections at expense of owners.
- § 118-15. Construction and use of private device for sanitary sewage and wastewater disposal prohibited.
- § 118-16. Procedure for connection.
- § 118-17. System rules and regulations.
- § 118-18. Fees and permits.
- § 118-19. Enforcement of connections.
- § 118-20. Violations and penalties.
- § 118-21. Declaration of purpose.

[HISTORY: Adopted by the Borough Council of the Borough of Montoursville: Art. I, 7-11-1994 as Ord. No. 354; Art. II, 10-16-1995 as Ord. No. 361; Art. III, 10-16-1995 as Ord. No. 362. Amendments noted where applicable.]

GENERAL REFERENCES

Plumbing — See Ch. 110.
Solid waste — See Ch. 126.

Water — See Ch. 154.

ARTICLE I
Holding Tanks

[Adopted 7-11-1994 as Ord. No. 354]

§ 118-1. Purpose.

The purpose of this Article is to provide for and regulate the use, maintenance and removal of existing and new holding tanks to protect the residents and inhabitants of the Borough of Montoursville from danger and harm due to inadequate or malfunctioning on-site septic systems, to permit the development of lands with the use of holding tanks under carefully controlled and regulated circumstances, to regulate the use and maintenance of existing and new holding tanks in conformity with the law, statutes and regulations of the Commonwealth of Pennsylvania and the Department of Environmental Protection and to provide a temporary

alternative to discontinuing otherwise lawful land use by the inhabitants and residents of the Montoursville Borough.

§ 118-2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ACT — The Pennsylvania Sewage Facilities Act, 35 P.S. § 750.1-750.20, as amended from time to time.

BOROUGH — The Borough of Montoursville, Lycoming County, Pennsylvania.

COUNCIL — The Borough Council of the Borough of Montoursville.

DEPARTMENT — The Pennsylvania Department of Environmental Protection or its successor state agency.

DISPOSAL SITE — A suitable facility for the final disposition of human and animal sewage and wastes, which facility shall have been and remains approved for such purposes by the Department.

HOLDING TANK — A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another sight. The term shall include a retention tank, a holding tank to which sewage is conveyed by a water carrying system.

HOLDING TANK CLEANER — A municipality, county, municipal authority or person, natural or a legal entity, including the holding tank owner, who removes the contents of a holding tank for the purpose of disposing of the sewage at another site.

LANDOWNER — The natural person or persons, partnership, corporation or legally existing organization who owns legal and/or equitable title to the land for which a holding tank permit is sought or issued.

LOT — A parcel of land under single ownership regardless of acreage. In the event that the subject lands are a portion of a larger parcel of ground, the larger parcel of ground shall be considered as the lot.

OFFICER — The duly appointed Sewage Enforcement Officer of the borough.

REGULATIONS — The regulations of the Pennsylvania Department of Environmental Protection, Pa. Code, Title 25, Subpart C. Chapters 71 and 73, as adopted; and, all future regulations of the Department pertaining to holding tanks.

SEWAGE — Any substance that contains any of the waste products, excrement or other discharge from the bodies of human beings or animal and noxious or deleterious substances being harmful or inimical to the public health or to animal or aquatic life or to the use of water for domestic water supply or for recreation or which constitutes pollution under an ordinance or state or federal law.

§ 118-3. Use of holding tanks.

Holding tanks may be used subject to the provisions of this Article to serve as a temporary sewage disposal from existing structures within the Borough of Montoursville where on-lot sewage disposal facilities are not feasible due to unsuitability of soils, for a temporary sewage disposal from existing structures where a malfunction in the presently installed on-site sewage treatment system cannot be suitably repaired or replaced due to unsuitability of soils or temporarily serve for sewage disposal for new construction in any area of the borough until said new construction can be hooked up to a sewage treatment system.

§ 118-4. Application for permit.

- A. Any landowner seeking to use a holding tank for sewage disposal on any lot situated in the borough shall, after receipt of municipal and Department official sewage facilities plan approval, obtain a permit from the Municipal Sewage Enforcement Officer.
- B. Permit application shall be made upon a form to be supplied by the Sewage Enforcement Officer to any landowner upon such landowner's request.
- C. The landowner shall file the complete and executed application for permit with the Sewage Enforcement Officer and, shall pay to the said office such application fees as the borough may from time to time prescribe by resolution or such fees are required by the Sewage Enforcement Officer.
- D. The landowner shall cooperate with the Sewage Enforcement Office at all stages of the application process.
- E. A permit shall be issued to the landowner upon proper application after approval of the Sewage Enforcement Officer, Council and after approval by the Department.
- F. Prior to grant of permit, the landowner shall obtain and file with the Borough Secretary a certified copy of each of the following documents:
 - (1) A completed application.
 - (2) A written contract between the landowner and a qualified and responsible holding tank cleaner for the term of the holding tank permit which contract shall provide for the timely and regular removal of the contents of the holding tank by the holding tank cleaner and for the removal of said contents to an approved disposed site providing the holding tank cleaner with the right to dispose of the holding tank contents.
 - (3) A certified copy of a written contract between the holding tank cleaner and the disposal site providing the holding tank cleaner with the right to dispose of the holding tank contents.
 - (4) Fees as established by resolution of the borough.
 - (5) An agreement to reimburse and indemnify the borough for any liability, costs and expenses which shall or may be incurred by the borough in actions to enforce compliance by the landowner or to remove the contents of the holding tank or the holding tank upon default or failure of the landowners to perform or for any fines incurred by the borough by reason of the landowner's failure to comply with this

Article, and properly enacted amendments hereto, or the laws and regulations of the Commonwealth of Pennsylvania. The agreement shall be in the form required by the Council.

- (6) A certified copy of the planning module approval from the borough and the Department if the holding tank is to have a flow in excess of four hundred (400) gallons per day or if the holding tank is to service a residential or potentially residential property.

§ 118-5. Removal of holding tank.

- A. In the event that a holding tank permit has been issued, the landowner shall remove or cause the removal of the holding tank within thirty (30) days after an off-site sewage disposal system is made available to the landowner and shall connect with the off-site disposal systems in the same time.
- B. The borough, at its election, shall have the right to enter upon the premises of a landowner for the purpose of removing or causing the removal of any holding tank which remains in place in violation of this Article. "Borough" as used herein shall mean the borough, its employees or third parties contracted by the borough for the purpose of removing the holding tank. All costs and expenses of removal shall be born by the landowner and may be collected by an action in assumpsit or by municipal lien.

§ 118-6. Requirements for holding tank.

- A. Any holding tank installed or maintained pursuant to a permit issued this Article shall comply, in all respects, to the specification set forth in Regulations of the Department, 25 Pa. Code Chapter 73, inclusive.
- B. The landowner shall cause the holding tank and all lines, pipes and conduits to the same to be maintained in a good watertight condition at all times.
- C. All holding tanks shall be installed on a firm and stable soil or subsoil and in such manner as to prevent settlement or movement.
- D. No holding tank or lines to the holding tank shall be covered until the Sewage Enforcement Officer and any other designated borough representative shall have first inspected and approved the installation and authorized covering the same. The landowner shall be responsible for furnishing reasonable notice of the installation for inspection.
- E. The landowner shall cause a holding tank to be cleaned as frequently as may be required to maintain the contents at a level less than seventy-five percent (75%) of the tank capacity.
- F. Holding tanks shall be installed at least fifty (50) feet downgrade from any source of water supply.

§ 118-7. Inspections and certification of pumping.

- A. Any landowner who applies for and receives a permit for holding tanks shall be deemed to have granted his consent for inspections of the holding tank and facilities used in connection with the holding tank by the Sewage Enforcement Officer of the borough. At reasonable times during the hours of 8 a.m. to 8 p.m., the landowner shall grant the Sewage Enforcement Office access to the premises for the purpose of making such inspections upon request of the Sewage Enforcement Officer verbally or in writing.
- B. Any landowner receiving a holding tank permit shall furnish to the borough a true and corrected copy of all pumping receipts for cleaning or removing the contents of the holding tanks. Such reports shall be made to the Borough Secretary within ten (10) days after the contents of the holding tank are pumped out. The borough shall receive, review and retain said pumping receipts in its file.
- C. The Sewage Enforcement Officer for the borough shall inspect each holding tank at least once a year and shall complete an annual inspection report which shall be retained by the borough. The cost of the inspection shall be established on an annual basis by Borough Council and shall be paid by the landowner receiving a holding tank permit. The landowner shall be responsible for scheduling the inspection with the Sewage Enforcement Officer. In the event that the landowner does not schedule an inspection with the Sewage Enforcement Officer, the borough shall initiate the inspection upon reasonable notice to the landowner.
- D. The failure of a landowner to permit inspection of holding tanks or equipment or facilities used in connection with the holding tanks or the failure of the landowner to have the holding tanks properly maintained and pumped out or the failure of the landowner to furnish pumping receipts to the borough in a timely fashion shall be grounds for immediate revocation of permit.
- E. The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done solely pursuant to the rules and regulations established by Montoursville Borough and the disposal thereof shall be made solely at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.

§ 118-8. Appeals.

The procedure for appeal shall in all respects conform to the procedure for appeal from denial of a sewage permit by the Sewage Enforcement Officer of the borough, as provided by law and the agreement between the borough and the Lycoming County Sanitary Committee.

§ 118-9. Violations and penalties.

- A. Any person, firm or corporation violating any of the provisions of this Article shall be subject, upon conviction, to pay a fine of not more than one thousand dollars (\$1,000.), plus costs of prosecution and, in default of the payment of such fine and costs, to imprisonment for not more than thirty (30) days.

- B. Where the violation continues from day to day, and the landowner fails to correct or cease such violation, each day's continuance shall constitute a separate violation.
- C. In addition to any other remedies provided in this Article, any violation thereof shall constitute a nuisance and shall be abated by the borough by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a Court of competent jurisdiction.

ARTICLE II

Sewer Construction and Maintenance [Adopted 10-16-1995 as Ord. No. 361]

§ 118-10. Granting of authorization.

For the purpose of constructing, extending, installing, maintaining, safeguarding or repairing its sewer facilities, the Lycoming County Water and Sewer Authority (the "Authority") is authorized to enter in, under and upon any and all streets or other ways and other properties now or hereafter in public use within this borough; subject, however, to the following conditions:

- A. The Authority shall cause as little inconvenience to the public in the use of such streets and ways and properties as may be reasonably possible and shall comply with the reasonable requirements of the Borough Council in such regard.
- B. The Authority shall exercise caution and care toward existing utilities within all streets or other ways and other properties now or hereafter in public use within the borough. Any damage to existing facilities shall be repaired or replaced at the expense of the Authority.
- C. Upon completion of any work the Authority shall restore such streets and ways and properties as nearly as may be possible to the conditions prevailing before the work began.
- D. The Authority shall indemnify the borough and its Borough Council against all loss and expense by reason of injury to persons or damage to property resulting from operations of the Authority in such streets and ways and properties or the maintenance of its facilities thereunder and, upon request of the Borough Council, shall obtain insurance in reasonable amounts covering such risks.

§ 118-11. Rights of easement.

The aforesaid Authority is hereby granted the right and easement to construct and maintain its sewer facilities under any and all streets or other ways and properties now or hereafter in public use within this borough.

ARTICLE III

Sewer Connections [Adopted 10-16-1995 as Ord. No. 362]

§ 118-12. Definitions.

As used in this Article, the following terms shall have the meanings stated:

AUTHORITY — Lycoming County Water and Sewer Authority, a municipal authority organized and existing under the laws of the commonwealth.

BOROUGH — The Borough of Montoursville, Lycoming County, Pennsylvania, acting by and through its Council, or in appropriate cases, by and through its authorized representative.

COMMONWEALTH — The Commonwealth of Pennsylvania.

IMPROVED PROPERTY — Any property within this borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or wastewater shall be or may be discharged.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON — Any individual, company, association, society, trust, corporation, municipality, municipality authority or any group or entity.

PROPERTY ACCESSIBLE TO THE SEWER SYSTEM — Property which is benefited, improved or accommodated by a sewer system.

SANITARY SEWAGE — The normal, water-carried household and toilet wastes resulting from human occupancy.

SEWER — Any pipe or conduit constituting a part of the sewer system used or usable for sewage collection purposes.

SEWER SYSTEM — All facilities, as of any particular time, for collecting, transmitting, treating or disposing of sanitary sewage and/or wastewater situate in or adjacent to this borough and owned by the Authority.

WASTEWATER — The liquid and water carried, industrial or domestic waste, from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which is contributed into or permitted to enter the sewer system.

§ 118-13. Mandatory sewer connection.

Upon completion of any Authority Sewer System, the Authority shall request the borough to cause notice to be published once in a newspaper of general circulation in the borough, such notice to state that owners of any improved property that is property accessible to the sewer system shall connect such improved property with and use such sewer system in such manner as this borough may require, within ninety (90) days after notice to such owner from this borough to make such connection, for the purpose of discharging all sanitary sewage and wastewater from such improved property. The Authority, as agent for the borough, shall cause a copy of such notice to be served, either by personal service or by registered mail, upon each person known to the Authority to own such property not then so connected.

§ 118-14. Connections at expense of owners.

- A. The owner of any improved property that is property accessible to the sewer system shall, at his own expense, install sanitary facilities in such building and connect the same to the sewer system within ninety (90) days after publication of the notice of completion of the sewer specified in § 118-13.
- B. Any owner of improved property hereafter erected that is property accessible to the sewer system shall, at the time of erection and at his expense, install sanitary facilities in such building and connect the same to the sewer system.
- C. Any owner of improved property that is not property accessible to the sewer system who are nevertheless able to arrange for connections to the sewer system through adjoining properties may be permitted to make such connection.

§ 118-15. Construction and use of private device for sanitary sewage and wastewater disposal prohibited.

- A. It shall be unlawful for any person to construct or use on an improved property that is property accessible to the sewer system any privy vault, cesspool, sinkhole, septic tank or similar receptacle or device for the collection, storage, transportation or disposal of sanitary sewage and wastewater not connected to the sewer system. Any such privy vault, cesspool, sinkhole, septic tank or similar receptacle or device constructed or used in violation hereof is hereby declared to be a nuisance which shall be abated as provided by law. In addition, any such construction or use shall be reported to the proper law enforcement authorities for prosecution under any other applicable law of the Commonwealth of Pennsylvania. Violations of this Section shall also be subject to the penalties set forth in § 118-13 of this Article.
- B. The owner of each improved property within the borough required to be connected to the sewer system shall abandon every privy vault, cesspool, sinkhole, septic tank or similar receptacle or device in existence on or in the improved property from its use as such. Such abandonment shall be completed prior to the connection of the improved property to the sewer system. Thereafter, no such privy vault, cesspool, sinkhole, septic tank or similar receptacle or device shall be used in any manner for the collection, storage, transportation or disposal of sanitary sewage or wastewater, nor shall it be used by the owner of said improved property in the connection of such improved property to the sewer system.

§ 118-16. Procedure for connection.

No person shall make or shall cause to be made a connection of any improved property to the sewer system until such person shall have fulfilled each of the following conditions:

- A. Such person shall have notified the Secretary of the Authority, or the Secretary's designee, of the desire and intention to connect such improved property to the sewer system.
- B. Such person shall have given the Secretary of the Authority at least twenty-four (24) hours' notice of the time when such connection will be made so that the Authority may

supervise and inspect or may cause to be supervised or inspected the work of connection and necessary testing.

- C. If applicable, such person shall have furnished satisfactory evidence to the Secretary of the Authority that any tapping (or connection) fee that may be charged and imposed by the Authority against the owner of each improved property who connects such improved property to the sewer system has been paid.

§ 118-17. System rules and regulations.

The Authority is hereby authorized to prepare rules and regulations regarding connections, fees, permits, service charges for and operation of the sewer system to be constructed, and regarding the constituents concentrations and quantities of sanitary sewage and wastewater permitted to enter the sewer system.

§ 118-18. Fees and permits.

No connection shall be made to the sewer system except upon payment to the Authority of the prescribed connection fee to be set by resolution from time to time by the Authority and upon permit issued by the Authority pursuant to its rules and regulations regarding connections. Violations of this section shall also be subject to the penalties set forth in § 118-20 of this Article.

§ 118-19. Enforcement of connections.

If any person required by § 118-14 hereof to make a connection to the sewer system fails to do so within ninety (90) days after the notice referred to in § 118-13 hereof has been served upon him, the Authority shall report such failure to the borough; and the borough shall be requested to proceed, in its own right or through its agents, as provided by law, to enter upon the property, to make such connection and collect from such owner the costs and expenses thereof by municipal claim, civil action at law or such other legal proceedings as may be permitted by law in the name of the borough. Such persons failing to make such connection shall also be subject to the penalties set forth in § 118-20 of this Article. The borough hereby appoints the Authority as its agent for purposes of this section. Any powers the borough possesses may be used by its agents in accordance with this section.

§ 118-20. Violations and penalties.

Any person who shall violate this Article shall be served, either by personal service or by registered mail, by the Authority with written notice stating the nature of the violation and prescribing a reasonable time limit for the correction thereof. Any person continuing such violation beyond such time limit shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine up to the maximum penalty permitted by law, together with costs of prosecution in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such. Each separate building or dwelling unit in respect of which a violation

occurs shall also be deemed a separate offense. Fines and costs imposed under the provisions of this Article shall be enforceable and recoverable in the manner at the time provided by applicable law.

§ 118-21. Declaration of purpose.

It is declared that the enactment of this Article is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of the borough.

Chapter 123
SOBRIETY HOUSES

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| § 123-1. Definitions. | § 123-10. Housekeeping, sanitation and safety. |
| § 123-2. Purpose. | § 123-11. Client records. |
| § 123-3. License required. | § 123-12. Clients' rights. |
| § 123-4. Application for license. | § 123-13. Emergency services and procedures. |
| § 123-5. Issuance of license; display of license. | § 123-14. Client care policies. |
| § 123-6. Restriction on license. | § 123-15. Infection prevention and control. |
| § 123-7. Right to enter and inspect. | § 123-16. Violations and penalties. |
| § 123-8. Refusal or revocation of license. | |
| § 123-9. Treatment and rehabilitation services. | |

[HISTORY: Adopted by the Borough Council of the Borough of Montoursville 7-3-1989 as Ord. No. 329. Amendments noted where applicable.]

§ 123-1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ADMINISTRATOR — The individual who is designated by the owner or operator of the facility to ensure that the facility is in compliance with this chapter and to supervise the day to day activities of the facility.

BOROUGH — The Borough of Montoursville.

BUSINESS HOURS — A time period established by the facility, as defined in the facility's policies and procedures.

CERTIFICATE OF COMPLIANCE — A certificate which indicates that the borough has found a facility to be in full compliance with the standards established in this chapter.

CERTIFIED COUNSELOR — A person who is certified to counsel drug addicts.

CLEANING — The removal by scrubbing and washing, as with hot water, soap or detergent and vacuuming of infectious agents and of organic matter from surfaces on which and in which infectious agents may find conditions for surviving or multiplying.

CLIENT — A drug-dependent person who is or was residing in a sobriety house located in the borough.

CLIENT RECORDS — The medical, psychological, social, occupational, financial and other data maintained as required by this chapter.

COMMUNICABLE DISEASE — An illness due to a specific infectious agent or its toxic products which occurs through transmission of that agent or its products from a reservoir to a susceptible host.

CONSPICUOUSLY POSTED — Placed at a location within the facility accessible to and seen by clients and the public.

CONTROLLED SUBSTANCES — The controlled substances listed in the Controlled Substance, Drug, Device and Cosmetic Act.¹

DISINFECTION — The killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and physical means, directly applied.

DRUG-DEPENDENT PERSON — A person who is using or has used a drug, controlled substance or alcohol and who is or was in a state of psychological or physical dependence, or both, arising from administration of that drug, controlled substance or alcohol on a continuing basis. Such dependence is characterized by behavioral and other responses which include a strong compulsion to take the drug, controlled substance or alcohol on a continuous basis in order to experience its psychic effects or to avoid the discomfort of its absence. This definition shall include those persons commonly known as "drug addicts."

DRUG SCREENING — A clinical test to detect a drug or its metabolites in human biological fluid.

FACILITY — A sobriety house.

FULL TIME — A time period established by the facility as a full working week, as defined in the facility's policies and procedures.

NOSOCOMIAL INFECTION — An infection acquired by a client while residing in the facility.

OPERATOR — The person, partnership or corporation which owns and/or operates a sobriety house.

SOBRIETY HOUSE — A rooming house or boarding house which is not a residential treatment facility or transitional living facility and of which a substantial number of the residents are drug dependent persons.

TREATMENT — Services and programs for the care or rehabilitation of drug-dependent persons, including but not limited to medical, psychiatric, psychological, vocational, educational, recreational, social activities and group support activities.

§ 123-2. Purpose.

This chapter establishes the procedures for the issuance of a license to sobriety houses.

¹ Editor's Note: See 35 P.S. § 780-101 et seq.

§ 123-3. License required.

Persons, partnerships and corporations, or other legal entities intending to operate a sobriety house, shall first be licensed by the borough. It shall be unlawful to operate a sobriety house in the borough which is not licensed in accordance with this chapter.

§ 123-4. Application for license.

- A. Persons, partnerships, corporations or other legal entities intending to operate a sobriety house shall first apply for a license from the borough. Application shall be made using forms and procedures prescribed by the borough.
- B. A person, partnership, corporation or other legal entity shall pay to the borough an application fee of five hundred dollars (\$500.) with each application and with each application for renewal of license.
- C. The license shall expire one (1) year from the date of issuance. Prior to the expiration of the current license, the borough will notify the sobriety house of the date for an annual on-site inspection for renewal of license.
- D. All sobriety houses operating in the borough on the date this chapter is enacted shall within six (6) months of the effective date of this chapter apply for a license and comply with all provisions of this chapter.

§ 123-5. Issuance of license; display of license.

- A. A license to operate a sobriety house will be issued when, after an on-site inspection by an authorized representative of the borough, it has been determined that the requirements for licensure under this chapter have been met.
- B. A license will be issued to the operator of a sobriety house and will indicate the name of the facility, the address, date of issuance and the types of activities the sobriety house is authorized to provide.
- C. Current license shall be displayed in a public and conspicuous place in the facility.

§ 123-6. Restriction on license.

- A. A license applies to the person, the named facility, the premises designated therein and the activities and is not transferable.
- B. A licensee, using borough forms, shall notify the borough within ninety (90) days of the occurrence of any of the following conditions:
 - (1) Change in ownership.
 - (2) Change in name of the facility.
 - (3) Change in location of the facility.
 - (4) Change in activity/discontinuance of an activity.

- (5) Closing of facility.
- C. Failure to notify the borough under Subsection B will result in automatic expiration of the license.

§ 123-7. Right to enter and inspect.

- A. An authorized representative of the borough shall have the right to enter, visit and inspect a sobriety house licensed or applying for a license under this chapter.
- B. The authorized borough representative shall have full and free access to the records of the sobriety house and its clients.
- C. The authorized borough representative shall have the right to interview clients as part of the visitation and inspection process.

§ 123-8. Refusal or revocation of license.

- A. The borough may revoke or refuse to issue a license for any of the following reasons:
 - (1) Failure to comply with a directive issued by the borough.
 - (2) Violation of, or noncompliance with, this chapter.
 - (3) Failure to have at least one (1) full-time employee at the facility at all times to ensure compliance with this chapter. The employer shall be currently certified in first aid and cardiopulmonary resuscitation.
 - (4) Gross incompetence, negligence or misconduct in the operation of the facility.
 - (5) Fraud, deceit, misrepresentation or bribery in obtaining or attempting to obtain a license.
 - (6) Lending, borrowing or using the license of another facility.
 - (7) Knowingly aiding or abetting the improper granting of a license.
 - (8) Mistreating or abusing individuals cared for or treated by the facility.
 - (9) Continued noncompliance in disregard of this chapter.
 - (10) Operating a facility that, by nature of its physical condition of the property, endangers the health and safety of the public.
 - (11) Failure to comply with all zoning, fire, health and building codes.²
 - (12) Failure to obtain written approvals from the appropriate authorities that the sewage disposal system is adequate.³
 - (13) Exceeding the capacity approved by the borough for the facility.

² Editor's Note: See specifically, Ch. 158, Zoning and Ch. 66, Building Construction.

³ Editor's Note: See Ch. 118, Sewers.

- B. If the borough proposes to revoke or refuse to issue a license it will give written notice to the facility by certified mail, stating the following:
- (1) The reasons for the proposed action.
 - (2) The specific time period for the facility to correct deficiencies.
- C. If the facility does not correct the deficiencies within the specified time, the borough will officially notify the licensee that it shall show cause why its license should not be revoked or refused to be issued and that it has a right to a hearing before Borough Council on this question. A request to the borough of a hearing shall be filed, in writing, within thirty (30) days of receipt of the show cause order.

§ 123-9. Treatment and rehabilitation services.

- A. A written individual treatment and rehabilitation plan shall be developed for each client within seven (7) days of the date the client begins to reside at the sobriety house. The individual treatment and rehabilitation plan shall be approved by a psychiatrist, licensed counselor or licensed psychologist. This plan shall include, but not be limited to written documentation of:
- (1) Short and long term goals for treatment as formulated by both the staff, psychiatrist or psychologist and client.
 - (2) Type and frequency of treatment and rehabilitation services.
 - (3) Proposed type of support service.
- B. Treatment and rehabilitation plans shall be reviewed and updated at least every fifteen (15) days, which review shall be documented.
- C. The operator shall assure that counseling services and other services are provided according to the individual treatment and rehabilitation plan.
- D. Counseling shall be provided to a resident on a regular and scheduled basis.
- E. The operator shall assist the resident in obtaining the following supportive services when necessary:
- (1) Medical/dental.
 - (2) Psychiatric.
 - (3) Legal.
 - (4) Economic.
 - (5) Educational.
 - (6) Vocational.
 - (7) Recreational/social.

§ 123-10. Housekeeping, sanitation and safety.

- A. The facility shall establish and implement written policies and procedures, approved by the borough, regarding the provision and maintenance of a sanitary and safe environment, including, but not limited to the provision of housekeeping, laundry and pest control services, directly or through written agreement. The borough shall perform a documented review at least annually of the policies and procedures.
- B. The facility shall maintain the organization, management and operation of these services in accordance with a written organizational plan which shall describe the responsibility, authority and accountability relationships of personnel, the functional structure of the service and the relationship of the service to other services.
- C. If services are provided through written agreement or contract the services shall adhere to the standards herein.
- D. The operator or his/her designee shall ensure that:
 - (1) A written work plan for housekeeping operations is developed with categorization as to daily, weekly, monthly or annual cleaning assignments for each area of the facility.
 - (2) All housekeeping personnel are assigned duties, supervised and evaluated.
 - (3) Housekeeping personnel are trained in procedures of cleaning, including the use, cleaning and care of equipment.
 - (4) Procedures are developed for selection and use of housekeeping and cleaning products and equipment.
 - (5) Housekeeping services are evaluated.
- E. The facility shall comply with all provisions of the codes adopted by the Borough of Montoursville and in addition with the following:
 - (1) The facility and its contents shall be free from dust, dirt and debris.
 - (2) Nonskid wax shall be used on all waxed floors.
 - (3) All rooms shall be ventilated to help prevent condensation, mold growth and noxious odors.
 - (4) All residents' areas shall be free of noxious odors.
 - (5) Throw rugs or scatter rugs shall not be used in the facility.
 - (6) All furnishings and mechanical equipment shall be in working order. Equipment shall be kept covered to protect from contamination and accessible for cleaning and inspection. Broken items shall be repaired promptly.
 - (7) All equipment shall have unobstructed space provided for operation.
 - (8) All equipment and materials necessary for cleaning, disinfection and sterilization shall be provided.
 - (9) Thermometers shall be maintained and refrigerators, freezers and storerooms used for perishable and other items subject to deterioration.

- (10) All poisonous and noxious materials shall be identified, labeled and stored in a locked cabinet or room that is used for no other purpose.
 - (11) Pesticide shall be applied so as to prevent contamination to residents and food. Vapona (insecticidal) strips shall not be used anywhere in the facility.
 - (12) Articles in storage shall be elevated from the floor to facilitate cleaning and eliminate rodent harborages.
 - (13) Unobstructed aisles shall be provided between articles in storage.
 - (14) A program shall be maintained to keep rodents, insects, vermin, birds, animals, dust and contamination out of the facility. Pets are prohibited.
 - (15) Insect and rodent harborages shall be eliminated from the facility.
 - (16) Toilet tissue, soap and paper towels shall be provided in each bathroom at all times.
 - (17) Solid or liquid waste, garbage and trash shall be disposed of and stored in a manner so as to prevent fire, contamination or transmission of disease. Solid waste shall be stored in insectproof, rodentproof, fireproof, nonabsorbent, watertight containers with tight-fitting covers.
 - (18) Draperies, upholstery and other fabrics or decorations shall be fire-resistant and flameproof.
 - (19) Wastebaskets and ashtrays shall be made of noncombustible materials.
 - (20) Combustible material shall not be stored in heated rooms or within eighteen (18) feet of any heater located in an open basement.
 - (21) Paints, varnishes, lacquers, thinners and all other flammable materials and liquids shall not be stored in the building. Minimum supplies may be kept in a basement if stored in closed metal cabinets or containers, if such storage is approved, in writing, by the borough.
 - (22) The temperature of hot water shall be regulated and shall not exceed one hundred ten degrees Fahrenheit (110° F.) [forty-three degrees centigrade (43° C.)], except for dishwashing.
 - (23) The temperature within the facility shall be kept at a minimum of sixty-eight degrees Fahrenheit (68° F.) [twenty degrees centigrade (20° C.)], both during the day and evening.
- F. The facility shall establish and implement written policies and procedures, approved by the borough, for linen and laundry services, including methods of storage and transportation, including but not limited to the following:
- (1) Arrangements for the storage and laundering of linen and personal laundry, as defined in the facility's policy. Such policy shall not interfere with the residents' right to personal choice regarding dress.
 - (2) Accessibility of a laundry room which residents may use for washing their clothes.
 - (3) Frequency of laundering linen and personal laundry.

- (4) The frequency of changing bed linen, towels and washcloths, which shall include a mandatory change of at least once per week.
 - (5) Provision for a supply of linen, including at least sheets, pillowcases, blankets, towels and washcloths that is three (3) times the census, so that at least one (1) set of the clean linens remains available for each resident.
 - (6) Soiled linen and laundry shall be collected so as to avoid microbial dissemination into the environment and are placed in impervious bags or containers that are closed at the site of collection. Separate containers shall be used for transporting clean linen and laundry and for soiled linen and laundry.
 - (7) Soiled linen and laundry shall be stored in a ventilated area separate from any other supplies and are not stored, sorted, rinsed or laundered in residents' rooms, bathrooms, areas of food preparation and/or storage or areas in which clean linen, material and/or equipment are stored.
 - (8) Laundering facilities located in the facility shall be separate from the clean linen processing area, resident rooms, areas of food preparation and/or storage and areas in which clean material and equipment are stored.
 - (9) Clean linen shall be protected from contamination during processing, transporting and storage.
 - (10) Nothing herein shall be construed to preclude a sobriety house from providing its own laundry service.
- G. The facility shall establish and implement written policies regarding smoking to ensure that:
- (1) The policies are conspicuously posted and made known to the facility staff, residents and the public.
 - (2) Smoking is prohibited in any room, area or compartment where flammable liquids or other combustible supplies or materials are used or stored. Such areas shall be posted with no smoking signs.
 - (3) Residents shall not be permitted to smoke in bed.

§ 123-11. Client records.

- A. The facility shall maintain a complete client record for each resident which record shall include, but not be limited to the following:
- (1) Resident identification data, including name, date residence began, home address, date of birth, race and religion, sex, referral source, payment plan, marital status and the name, address and telephone number of the person to be notified in an emergency.
 - (2) Name, address and telephone number of the resident's counselor and/or physician and designated alternative.
 - (3) A summary of the admission interview.

- (4) The resident treatment plan.
 - (5) A record of counseling sessions attended or other meetings attended to ensure compliance with the treatment plan.
 - (6) Clinical notes.
 - (7) Progress notes.
 - (8) A record of medications administered if the resident is required by a physician to take medication.
 - (9) Records of accidents and incidents.
 - (10) Summaries of all referrals and services provided by health and health-related facilities or social service groups, organizations or agencies.
 - (11) A record of the clothing, personal effects, valuables, funds and other property brought to the facility by the resident.
 - (12) Summaries of conferences and consultations.
 - (13) Records of release or discharge.
 - (14) Any signed consent forms.
- B. The facility shall retain the records of each resident for a period of three (3) years after the client moves from the facility.
- C. All entries contained in the record shall be typewritten or written in ink, legible and dated and signed by the recording person.
- D. All records shall be kept confidential except that authorized borough representatives shall be permitted to inspect the records to ensure compliance with this chapter. The written consent of the resident shall be obtained for release of information from the record prior to the time the individual begins residency at the sobriety house.
- E. The facility shall develop and implement written policies and procedures, approved by the borough, governing the availability, release and/or provision of copies of the resident's record to the resident and/or the resident's authorized representative. The written policies and procedure shall include, but not be limited to the following:
- (1) Protection of record information against loss, destruction or unauthorized use.
 - (2) Establishment of a fee schedule for obtaining copies of the clients' records.
 - (3) Definition of the business hours during which the client has access to his/her record.
 - (4) Availability of the client's record to the client's authorized representative for the resident to access to or obtain copies of the record.
 - (5) Procedures to ensure that the client's record is provided within thirty (30) calendar days of the written request.

§ 123-12. Clients' rights.

- A. The facility shall establish written policies regarding the rights and responsibilities of clients and shall be responsible for developing and adhering to procedures implementing such policies. These policies and procedures shall be available to clients, staff and the public. They shall be posted in a conspicuous place in the facility.
- B. The staff of the facility shall be trained to implement these policies and procedures.
- C. The facility shall comply with all applicable state and federal statutes, rules and regulations.
- D. Clients' rights, policies and procedures shall ensure that, as a minimum, each client admitted to the facility:
 - (1) Is informed of these rights, as evidenced by his/her written acknowledgment prior to or at the time of admission and during stay, and is given a statement of rights in the facilities' rules and regulations and an explanation of the client's responsibility to obey all regulations of the facility and to respect the personal rights and property of other clients.
 - (2) Is fully informed of the services available at the facility, of the names, professional status and relationship of the staff members responsible for his/her care and of related charges and is given a written statement of the payment, fee, deposit and refund policy of the facility.
 - (3) Is assured of treatment in accordance with the written individualized treatment plan, is fully informed of the plan for treatment and of his/her condition and is afforded the opportunity to participate in the planning of his/her treatment.
 - (4) Is allowed to retain the services of any licensed physician, psychiatrist, psychologist or counseling service.
 - (5) Is assured confidential treatment of his/her records and disclosures in accordance with this chapter or other applicable rules and regulations.
 - (6) Is provided a list of all physicians, psychiatrists, certified drug and alcohol abuse counselors and counseling services in Lycoming County.
 - (7) Has access to and/or may obtain a copy of his/her record, in accordance with the facility's policies and procedures.
 - (8) Is treated with consideration, respect and full recognition of his/her dignity, individuality and right to privacy, including but not limited to privacy concerning his/her treatment and condition and the care of his/her personal needs. Privacy of the resident's body shall be maintained during, but not limited to toileting, bathing and other activities of personal hygiene, except as needed for residents' safety or assistance.
 - (9) Is assured security in retaining and using personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents. If the resident has property on deposit with the facility, he/she shall have daily access to such

property during specific time periods established by the facility and at a reasonable hour.

- (10) May associate and communicate privately with persons of his/her choice, in accordance with the treatment plan, may send and receive personal mail unopened and, upon request, shall be given assistance in the reading and writing of correspondence.
- (11) May participate in facility activities and meet with and participate in activities of, social, religious and community groups at his/her discretion and in accordance with the treatment plan. Arrangements shall be made, at the client's expense, for attendance at religious services of his/her choice when requested.
- (12) Is assured the opportunity to receive literature, attend meetings and meet representatives of Narcotics Anonymous and Alcoholics Anonymous and other support groups.
- (13) Is allowed to conduct private telephone conversations at a reasonable hour in accordance with the treatment plan.
- (14) Is allowed daily visiting hours at a reasonable hour in accordance with the treatment plan. Privacy shall be ensured for visits with family, friends, clergy, social workers or for professional or business purposes.
- (15) Is assured that if restrictions are placed on visitations, telephone calls and/or other communications, as documented in the treatment plan, such restrictions shall be evaluated at least every seven (7) days.
- (16) Is not required to perform work for the facility unless the work is part of the treatment plan and is performed voluntarily by the resident, who receives wages commensurate with the economic value of the work. Such work shall be in accordance with local, state and federal laws and regulations.
- (17) Is not the object of discrimination with respect to admission, treatment, meals and participation in recreational activities or other social functions because of age, race, religion, sex or nationality.

§ 123-13. Emergency services and procedures.

- A. The facility shall have a written emergency plan which shall include procedures to be followed in case of medical emergencies, equipment breakdown, fire or other disaster. The plan shall be developed with the assistance of fire and safety personnel from the borough and the Willing Hand Hose Company and be reviewed annually. The facility must review the emergency plan with each client prior to beginning residency at the sobriety house and maintain written documentation of the review.
- B. Procedures for emergencies shall specify persons to be notified, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating clients, frequency of drills and tasks and responsibilities assigned to all personnel.

- C. Simulated drills shall be conducted at least four (4) times a year with a record written of each drill, including the date, hour, description of the drill, participating staff and signature of the person in charge. The drill shall include at least three (3) types of emergencies:
- (1) Medical emergencies;
 - (2) Equipment failure or power loss.
 - (3) Fire and other disaster (storm, flood, other natural disaster, nuclear accident).
- D. The facility shall be equipped with fire extinguishers in a number designated by the borough. The fire extinguishers shall be tested annually, tagged to indicate date of testing and maintained in accordance with Borough Code regulations.
- E. The facility shall have a written plan for procuring water during an emergency.
- F. The emergency plan and all emergency procedures shall be posted throughout the facility.
- G. The facility shall provide one staff member at all times, which staff member shall be currently certified to administer first aid and cardiopulmonary resuscitation.

§ 123-14. Client care policies.

- A. The facility shall establish and implement written client care policies and procedures, approved by the borough, governing the services provided.
- B. Client care policies and procedures shall include but not be limited to policies and procedures for the following:
- (1) Client rights and responsibilities.
 - (2) Care of clients, to ensure that each client is provided with a room and services in accordance with the standards herein.
 - (3) A definition of emergency.
 - (4) Emergency care of clients in accordance with the standards herein, care of clients during an episode of communicable disease.
 - (5) Client record keeping.
 - (6) Assisting clients to obtain medical and social services.
 - (7) Assisting clients to obtain health services such as podiatry and dental services, eye examinations, eye glasses, auditory testing and hearing aids, when requested by the client.
 - (a) The facility shall make available emergency dental and health care services through written agreement with health care providers.
 - (b) The facility shall ensure that arrangements are made for transportation for dental and other health services; and
 - (c) The services provided shall be documented in the client's record by the facility.

- C. Provision of clothing suitable for the climate and weather conditions, of proper size, in the event that the client is unable to afford such clothing, the clothing shall be provided at the expense of the sobriety house.
- D. Delineation of the housekeeping activities that clients may perform as part of their treatment plan, as documented in the client's record.
- E. The evaluation of each client to determine use of alcohol, drugs and/or use of medications not prescribed for him/her, including provision for urinalysis if drug abuse is suspected and procedures in the event that a client is found to be using alcohol, drugs and/or medications not prescribed for him/her.
- F. Criteria and procedures for residents of clients, including the following:
 - (1) Each client shall have prepared a treatment program by a psychiatrist, licensed psychologist or certified counselor, either before residency or within seven (7) days of beginning residency.
 - (2) Ensure that each client admitted is certified by a physician to be free of communicable disease, mobile under his/her own power with or without assistive devices and able to leave the facility by him/herself.
 - (3) A personal interview with the client, prior to or at the time of beginning residency conducted by the administrator of the facility. The interview shall include orientation of the client to the facility's policies, business hours, fee schedule, services provided, requirements and procedures of the facility. A summary of the interview shall be maintained in the client's record. Obtain a designation of the person to be notified in the event of an emergency.
 - (4) Designation of a physician in the event of emergency if client so desires.
 - (5) Circumstances under which the client may be removed from the facility. The procedure for removal of a client from a facility shall include prior written notification to the client including the reason for removal.
 - (6) Upon notification of removal from a facility the facility will make reasonable efforts to ensure that the client has alternative housing. The efforts made by the facility shall be documented in the client's record.

§ 123-15. Infection prevention and control.

- A. The facility shall establish and implement an infection prevention and control program. The administrator shall ensure the development, implementation and enforcement of the program.
- B. The facility shall establish and implement written policies and procedure, approved by the borough, regarding infection prevention and control, including but not limited to the following:
 - (1) A definition of nosocomial infections.

- (2) Cleaning and disinfection practices and techniques used in the facility, including but not limited to the following:
- (a) Care of utensils, articles and surfaces.
 - (b) Selection, storage, use and disposition of disposable and nondisposable items.
 - (c) For all employees, orientation at the time of employment and continuing in-service education regarding the infection prevention and control program, including employees responsibility for the program and for personal hygiene. Orientation and in-service education programs shall be documented as to date, topic and persons in attendance.
 - (d) Written reports of inspections, including food, equipment and personnel.
- C. The facility shall establish and implement written policies and procedures for referral of clients with infectious diseases to the appropriate health-care facilities or providers.

§ 123-16. Violations and penalties.

- A. Any person who violates any of the provisions of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of five hundred dollars (\$500.), plus cost of prosecution. Each day shall constitute a separate violation.
- B. Nothing herein shall preclude the borough from instituting any civil actions to enjoin any activity in violation of this chapter.

Chapter 126 SOLID WASTE

ARTICLE I Solid Waste Management

- § 126-1. Title.
- § 126-2. Definitions.
- § 126-3. Storage, collection and disposal restrictions.
- § 126-4. Dumping prohibited.
- § 126-5. Hauling of waste.
- § 126-6. Farming and gardening.
- § 126-7. Authorization of collectors.
- § 126-8. Issuance of haulers licenses; fees.
- § 126-9. Disposal of solid waste.
- § 126-10. Disposal at nonauthorized facilities.
- § 126-11. Bulky wastes and appliances.
- § 126-12. Adoption of Department rules and regulations on storage collection, transportation processing and disposal.
- § 126-13. Amendments to Rules, Regulations and Standards.
- § 126-14. Transportation of waste.
- § 126-15. Violations and penalties.
- § 126-16. Failure to comply; removal; costs.
- § 126-17. Enforcement.
- § 126-18. Compliance with other provisions.
- § 126-19. Amendments to Article.
- § 126-20. Title.
- § 126-21. Definitions.
- § 126-22. Establishment of a municipal recycling program.
- § 126-23. Placement for disposal by inhabitants of residential dwellings.
- § 126-24. Commercial municipal and institutional establishments and at community activities.
- § 126-25. Placement for disposal at multifamily housing properties.
- § 126-26. Lead acid batteries.
- § 126-27. Separation and disposal of leaves.
- § 126-28. Licensing of collectors; fees.
- § 126-29. Collection of recyclable materials by unauthorized person(s).
- § 126-30. Delivery to landfills or incinerators.
- § 126-31. Right to contract for services.
- § 126-32. Violations and penalties.

ARTICLE III Solid Waste Collection

- § 126-33. Intent and purpose.
- § 126-34. Definitions.
- § 126-35. Licensing of collectors.
- § 126-36. Schedules.
- § 126-37. Hours of operation.
- § 126-38. Equipment of collector.
- § 126-39. Inspection of equipment.
- § 126-40. Disposal.
- § 126-41. Assignment of license.
- § 126-42. Workers' compensation and social security.

ARTICLE II Recycling

- § 126-20. Title.
- § 126-21. Definitions.

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| § 126-43. Collector as independent contractor. | § 126-48. Evidence of satisfactory equipment. |
| § 126-44. Insurance coverage. | § 126-49. Borough authority. |
| § 126-45. Suspension or revocation of license. | § 126-50. Unlawful activity. |
| § 126-46. Appeals process. | § 126-51. Violations and penalties. |
| § 126-47. Faithful performance. | § 126-52. Injunctive relief. |
| | § 126-53. Concurrent remedies. |

[HISTORY: Adopted by the Borough Council of the Borough of Montoursville: Art. I, 9-23-1985 by Ord. No. 294; Art. II, 4-16-1990 by Ord. No. 334; 11-18-1996 by Ord. No. 366. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 114.

Sewers — See Ch. 118.

ARTICLE I

Solid Waste Management

[Adopted 9-23-1985 as Ord. No. 294]

§ 126-1. Title.

This Article shall be known as the "Montoursville Borough of Municipal Solid Waste Ordinance."

§ 126-2. Definitions.

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

APPLICANT — A person desirous of being authorized as a collector.

BOROUGH — Montoursville Borough, Lycoming County, Pennsylvania, the governing body or its officials thereof.

COLLECTOR — A person authorized by Lycoming County and the Borough of Montoursville to collect, transport and dispose of municipal waste.

COMMERCIAL HAULER — A person, partnership or other entity which engages in the business of collecting and transporting solid waste for compensation or consideration.

COMPOST — A process of controlled biological decomposition of organic materials, producing a stable, aerobic humus-like product.

COUNTY — Lycoming County, Commonwealth of Pennsylvania and/or Lycoming County Solid Waste Disposal Department thereof.

DISPOSAL — The incineration, deposition, injection, dumping, spilling, leaking or placing of municipal waste into or on the land or water in a manner that the solid waste or a constituent of solid waste enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

DISPOSAL AREA — Any site, location, area, incinerator, resource recovery facility or premises to be used for the ultimate disposal of municipal waste.

INSTITUTIONAL ESTABLISHMENT — Any establishment engaged in services to persons, including but not limited to hospitals, nursing homes, orphanages, schools and universities.

JUNKED or ABANDONED VEHICLE — A motor vehicle not bearing a currently valid motor vehicle registration, and which is not capable of operation without mechanical repair, adjustment or replacement of a part or parts.

MANAGEMENT — 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.

MUNICIPAL WASTE — Any garbage, refuse, industrial lunchroom or office waste and other material including solid, liquid, semisolid or contained gaseous material resulting

(Cont'd on page 12603)

from operation or residential, municipal, commercial or institutional establishments and from community activities, and any sludge not meeting the definition of residual or hazardous wastes as defined in the Pennsylvania Solid Waste Management Act (35 P.S. § 6018.101, et seq.) from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.

PERSON — 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 the subject of rights and duties.

PROCESSING — 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 and resource recovery facilities.

REFUSE — All materials which are discarded as useless.

REGULAR — At least two (2) or more times per month.

SOLID WASTE — Any waste, including but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.

STORAGE — The containment of any waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any waste in excess of one (1) year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

TRANSPORTATION — The off-site removal of any municipal waste at any time after generation.

§ 126-3. Storage, collection and disposal restrictions.

It shall be unlawful for any person to store, dispose, dump, discard or deposit or permit the storage, dumping, discarding or depositing of any municipal waste upon the surface of the ground or underground within the jurisdictional limits of the Borough of Montoursville, except in proper containers for purposes of storage or collection, and except where the waste is of such size or shape as not to permit its being placed in such containers. This section is not intended to prohibit use of a properly maintained home compost pile or a properly approved and permitted demolition facility.

§ 126-4. Dumping prohibited.

It shall be unlawful for any person to dump or deposit municipal waste in any stream or body of water within the jurisdictional limits of the Borough of Montoursville or upon property owned or controlled by the borough or a municipal authority of the borough.

§ 126-5. Hauling of waste.

Nothing contained herein shall be deemed to prohibit any person, not regularly engaged in the business of hauling solid waste for profit, from hauling such solid waste on an irregular and unscheduled basis, so long as such hauling and disposal is in accordance with the ordinances of this municipality and is permitted by the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP).

§ 126-6. Farming and gardening.

Nothing contained in this Article shall prohibit a farmer or gardener from carrying out the normal activities of his farming/gardening operation, including composting and spreading of manure or other farm-produced agricultural wastes.

§ 126-7. Authorization of collectors.

It shall be unlawful for any person, other than such persons as are duly authorized by Lycoming County and the Borough of Montoursville, to collect and transport solid waste of any nature as a regular hauling business within or from the Borough of Montoursville or lands owned or controlled by the Borough or its agencies. Authorization shall be given only as set forth below.

§ 126-8. Issuance of haulers licenses; fees.

The county, with the approval of the Borough of Montoursville, shall authorize by issuance of a business license such hauler(s) to collect and transport all wastes in this municipality. All applications for licensing shall be reviewed by the Department of Solid Waste of Lycoming County as license issuing agent for the municipality and shall be approved in accordance with the following criteria:

- A. Licenses may be issued to only those persons who can provide satisfactory evidence that they are capable of providing the necessary services and can comply with the provisions and intent of this Article and the rules and regulations established by the County Solid Waste Department.
- B. At the time of application submission, the applicant shall indicate that he has the appropriate type of sanitary, watertight, closed or covered truck with which to collect municipal wastes and shall provide evidence that he carries sufficient liability insurance on the vehicle.
- C. Licenses shall be issued on a fiscal year (July 1 to June 30) basis, but may be revoked at any time by the Borough of Montoursville and the Lycoming County Solid Waste Disposal General Manager for just cause in accordance with the rules and regulations adopted by the Board of County Commissioners and pursuant to the rules and regulations of the DEP.
- D. Fees for such licenses shall be paid by the applicant to the county and said fees shall be on the basis of costs as provided for in the Rules and Regulations of Lycoming County Solid Waste Disposal.

§ 126-9. Disposal of solid waste.

All solid waste produced, collected and transported from within the jurisdictional limits of the Borough of Montoursville or from land owned or controlled by the borough or its agencies shall, to the extent permitted by law, be disposed of only at facilities designated and permitted by the Commonwealth of Pennsylvania, Department of Environmental Protection.

§ 126-10. Disposal at nonauthorized facilities.

It shall be unlawful for any person, including a licensed or authorized collector in the Borough of Montoursville, to dispose of solid waste collected within the Borough of Montoursville at a place other than the facilities designated in the Solid Waste Management Plan of the Borough of Montoursville, as approved by the Department of Environmental Protection.

§ 126-11. Bulky wastes and appliances.

The disposal of bulky wastes, such as, but not limited to, refrigerators, stoves, other appliances, pieces of furniture, auto parts and other household goods and equipment shall be performed by commercial or private collection unless a cleanup campaign by the Borough of Montoursville shall prescribe the manner of such collection and disposal.

§ 126-12. Adoption of Department rules and regulations on storage collection, transportation processing and disposal.

The Borough of Montoursville hereby adopts by reference the Rules and Regulations and Standards of the Department of Environmental Protection as promulgated under and pursuant to the Pennsylvania Solid Waste Management Act¹ with respect to the storage, collection, transportation, processing and disposal of municipal waste generated within the Borough of Montoursville or upon property owned or controlled by the borough or a municipal authority of the borough.

§ 126-13. Amendments to Rules, Regulations and Standards.

The Rules, Regulations and Standards shall be automatically amended from time to time with any lawful amendments to the Rules, Regulations and Standards of the Department of Environmental Protection.

§ 126-14. Transportation of waste.

Any person transporting solid waste within the Borough of Montoursville or its lands shall prevent or remedy any spillage from vehicles or containers used in the transport of such solid waste.

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

§ 126-15. Violations and penalties.²

Any person violating any of the provisions of this Article shall be guilty of a summary offense and shall upon conviction thereof before a district magistrate of Lycoming County, be sentenced to pay a fine of not more than the maximum amount allowed by law, together with the costs of prosecution or to undergo imprisonment in the Lycoming County Jail for a period of not more than thirty (30) days. Every violator of this Article shall be deemed guilty of a separate offense for each and every such separate offense violation shall continue and shall be subject to the penalty imposed by this section for each and every such separate offense.

§ 126-16. Failure to comply; removal; costs.

In addition to the foregoing penalty, the Borough of Montoursville may require the owner or occupier of a property to remove any accumulation of solid waste or junked or abandoned motor vehicle, and should said person fail to remove the same within ten (10) days after written notice, the Borough of Montoursville may cause the same to be done and collect the costs thereof together with a penalty of ten percent (10%) of such costs in the manner provided by law for the collection of municipal claims or by action in assumpsit or may seek relief by bill in equity.

§ 126-17. Enforcement.

It is hereby designated that the borough officials to whom all notices under this Article are to be given, and by whom all provisions of this Article are to be enforced, are is Borough Codes Enforcement Officer or Borough Secretary, Montoursville Borough Building, 12 North Washington Street, Montoursville, Pennsylvania, or the Lycoming County Solid Waste Disposal Manager, Lycoming County Courthouse, Williamsport, Pennsylvania.

§ 126-18. Compliance with other provisions.

This Article shall be subject to all applicable federal, state and local laws, ordinances, rules and regulations including the rules and regulations as set forth by the Department of Environmental Protection, Commonwealth of Pennsylvania.

§ 126-19. Amendments to Article.

This Article or any part thereof may be amended from time to time in accordance with the procedures established by law.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE II

Recycling

[Adopted 4-16-1990 as Ord. No. 334]

§ 126-20. Title.

The short title of this Article shall be "Borough of Montoursville Recycling Ordinance," and the same may be cited in that manner.

§ 126-21. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ALUMINUM CANS — Empty all-aluminum beverage and food containers.

APPLICANT — A person desirous of being authorized as a collector of source-separated recycled materials.

BIMETAL CONTAINERS — Empty food or beverage containers consisting of steel and aluminum.

COMMERCIAL ESTABLISHMENT — Those properties used primarily for commercial or industrial purposes and those multiple-dwelling residential buildings containing four (4) or more dwelling units.

COMMUNITY ACTIVITIES — Church, school, civic, service group, municipal functions and all other such functions.

CORRUGATED PAPER — Structural paper material with an inner core shaped in rigid parallel furrows and ridges.

FERROUS CONTAINERS — Empty steel or tin-coated steel food or beverage containers.

GLASS CONTAINERS — Bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products.

HIGH-GRADE OFFICE PAPER — All white paper, bond paper and computer paper used in commercial, institutional and municipal establishments and in residences.

INSTITUTIONAL ESTABLISHMENT — Those facilities that house or serve groups of people such as hospitals, schools, day-care centers and nursing homes.

LEAD ACID BATTERIES — Includes but not limited to automotive, truck and industrial batteries that contain lead.

LEAF WASTE — Leaves from trees.

LICENSED RECYCLING COLLECTOR — A person authorized to collect source-separated recyclable materials from commercial, institutional and municipal establishments and multifamily housing properties in the Borough of Montoursville.

MAGAZINES AND PERIODICALS — Printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded are all other paper products of any nature whatsoever.

MULTIFAMILY HOUSING PROPERTIES — Having four (4) or more dwelling units per structure.

MUNICIPAL ESTABLISHMENTS — Public facilities operated by the Borough of Montoursville and other governmental and quasi-governmental authorities.

MUNICIPAL RECYCLING PROGRAM — A source separation and collection program for recycling municipal waste or source-separated recyclable materials, or a program for designated dropoff points or collection centers for recycling municipal waste or source-separated recyclable materials that is operated by or on behalf of a municipality. The term includes any source separation and collection program for composting yard waste that is operated by or on behalf of a municipality. The term shall not include any program for recycling construction/demolition waste or sludge from sewage treatment plants or water supply treatment plants.

MUNICIPALITY — The Borough of Montoursville, Lycoming County, Pennsylvania.

NEWSPAPERS — Paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest.³

PERSON(S) — Owners, lessees and occupants of residences, commercial or institutional establishments.

PLASTIC CONTAINERS — Empty plastic food and beverage containers. Due to the large variety of types of plastic, the recycling regulations may stipulate specific types of plastic which may be regulated.

RECYCLING — The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

RESIDENTIAL DWELLINGS — Any occupied single or multifamily dwelling having up to and including three (3) dwelling units per structure.

SOURCE-SEPARATED RECYCLABLE MATERIALS — Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

WASTE — A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include source-separated recyclable materials or material approved by the Department for beneficial use.

³ Editor's Note: The former definition of "high-grade office paper" which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 126-22. Establishment of a municipal recycling program.

- A. There is hereby established a municipal recycling program for the mandatory separation of recyclable materials from solid waste by persons residing in single dwellings or multifamily dwellings having up to and including three (3) dwelling units per structure.
- B. The Borough of Montoursville, Department of Streets, shall be responsible for scheduling a day, at least once a month, for collection of recyclable material. The Department of Streets has the authority to establish and modify this schedule and the responsibility for communicating it to the residents of the borough, along with the authority to make regulations pursuant to this Article.

§ 126-23. Placement for disposal by inhabitants of residential dwellings.

- A. Recyclable materials from residential dwellings shall be placed at the curb or other designated place separate from solid waste for collection or taken to dropoff sites at such times, dates and places and manner as may be established by regulation of the Department of Streets. Materials to be recycled are: clear glass, brown glass, green glass and aluminum beverage containers and other materials as designated by the municipality.
- B. The recyclable materials shall be placed in designated containers which may be provided by the municipality and, if so provided, said containers shall be the property of the municipality and remain with the residence, regardless of owner or tenant.

§ 126-24. Commercial municipal and institutional establishments and at community activities.

- A. Commercial, municipal and institutional establishments shall separate and store, until collection, high-grade office paper, corrugated paper and aluminum, leaf waste and other source-separated recyclable materials which they may elect to recycle. These establishments must arrange for the transfer of the materials at least once a month to a recycling system by a collector licensed (for the purpose of collecting source-separated recyclable materials) by the Borough of Montoursville.
- B. The licensed recycling collector shall annually provide to the Borough of Montoursville evidence of each such arrangement and documentation of the total number of tons recycled by providing invoices showing the materials collected from the establishments (or properties) that were marketed.
- C. At all community activities, recyclable materials designed by the borough must be separated until collection. Sponsoring organizations must arrange for the transfer of the materials to a recycling system.
- D. Commercial, municipal and institutional establishments and coordinators of community activities who comply with this act shall not be liable for the noncompliance of their tenants where a portion of the building is leased to tenant(s) and/or for the noncompliance by the general public where there is public access to the building or grounds or in other public areas.

§ 126-25. Placement for disposal at multifamily housing properties.

The owner, landlord or an agent of an owner or landlord of multifamily housing properties of four (4) or more units shall establish a collection system for recyclables at each property. Materials to be separated are: clear glass, colored glass, aluminum cans. The collection system must include suitable containers for collecting and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. These landlords or owners must arrange for the collection of the recyclable materials by a licensed recycler at least once a month. Owners, landlords and agents of owners or landlords who comply with this act shall not be liable for noncompliance of occupants of their buildings.

§ 126-26. Lead acid batteries.

No person may place a used lead acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a secondary lead smelter permitted by the Environmental Protection Agency, or to a collection or recycling facility authorized under the laws of the commonwealth.

§ 126-27. Separation and disposal of leaves.

All persons who reside in residential dwellings and all persons who are responsible for administration of multifamily housing properties, commercial, municipal and institutional establishments who gather leaves shall source-separate all leaves from other waste and place them for collection at the times and in the manner prescribed by the borough. Leaves are not to be incorporated into the regular waste stream. Nothing herein shall require any person to gather leaves or prevent any person from utilizing leaves for compost, mulch or other agricultural, horticultural, silvicultural, gardening or landscape purposes.

§ 126-28. Licensing of collectors; fees.

A. The Borough of Montoursville shall authorize by issuance of a license, such hauler(s) to collect and market source-separated recyclable materials from multifamily dwellings, commercial and institutional establishments within the municipality. All applications for licensing shall be reviewed by the borough and shall be approved in accordance with the following criteria:

- (1) No person other than such persons as are duly authorized by the borough shall collect, transport and/or market source-separated recyclable materials within or from the borough. Authorization shall be given only by the Department of Streets of the Borough of Montoursville, or its designee, in accordance with regulations established by said Department.
- (2) Licenses may be issued to only those persons who can provide satisfactory evidence that they are capable of providing the necessary services and can comply with the provisions and intent of this Article and the rules and regulations established by the borough.

- (3) At the time of application submission, the applicant shall indicate that he has the appropriate type of closed or covered truck with which to collect source-separated recyclable materials and shall provide evidence that he carries sufficient liability insurance on the vehicle.
 - (4) Licenses shall be issued on a fiscal year basis and renewed annually, but may be revoked at any time by the Borough of Montoursville for just cause in accordance with the rules and regulations of the Borough of Montoursville and/or Department of Environmental Protection.
 - (5) Fees for such licenses shall be determined from time to time by resolution by the Borough Council of the Borough of Montoursville and said fees shall be on the basis of cost and covered in the rules and regulations of the Borough of Montoursville.
- B. Nothing herein shall prohibit an individual from taking his/her source-separated recyclable materials directly to a designated dropoff site or to market in accordance with this Article.

§ 126-29. Collection of recyclable materials by unauthorized person(s).

- A. Ownership of any recyclable materials is retained by the owners, lessees and occupants of residences, commercial or institutional establishments until the materials are placed at curbside or a similar location for collection. Thereafter, once the materials are placed at curbside or a similar location they become the property of the borough or its contract collector.
- B. It shall be a violation of this Article for any persons unauthorized by the borough to collect or pick up or cause to be picked up any such recyclable material. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

§ 126-30. Delivery to landfills or incinerators.

- A. All recyclable materials must be delivered by the authorized collector to recycling markets.
- B. It shall be a violation of this Article for the authorized collector of recyclable materials to deliver such materials to a landfill or incinerator for the purpose of disposal. The authorized collector will provide to the borough the weight receipts of the recyclable materials, collected and marketed.

§ 126-31. Right to contract for services.

Nothing herein is intended nor shall prohibit the Borough of Montoursville (which has the responsibility for municipal waste planning, recycling and waste reduction under the Act of July, 1988, No. 101,¹ from entering into agreement(s) with public or private agencies or firms

¹ Editor's Note: See the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. § 4000.101 et seq.

to authorize them to collect all or part of the recyclable materials from residential dwellings at curbside or from dropoff collection points.

§ 126-32. Violations and penalties.

- A. Any action by any person, firm, corporation or other entity which violates this Article or any regulations thereof shall be punishable by a penalty as set forth in Chapter 1, General Provisions, Article II, General Penalty. [Amended 3-3-1997 by Ord. No. 370]
- B. Responsibility for the enforcement of this Article shall be with the Borough of Montoursville Codes Enforcement Officer in conjunction with the Department of Streets.

ARTICLE III

Solid Waste Collection

[Adopted 11-18-1996 by Ord. No. 366]

§ 126-33. Intent and purpose.

All domestic, commercial and industrial waste accumulated or stored upon any property within the Borough of Montoursville shall be collected and removed by a responsible person or collector who shall be licensed by the Borough of Montoursville and shall be disposed of in accordance with the Solid Waste Management Act² and the Municipal Waste Planning, Recycling and Waste Reduction Act.³

§ 126-34. Definitions.

As used in this article, the following terms shall have the meanings indicated, unless a different meaning appears clearly from the context:

BOROUGH — The Borough of Montoursville.

COLLECTOR — Any person who is engaged in the disposal of municipal waste for a fee or an agent, servant or employee of said person.

DISPOSAL — The storage, collection, disposal, transportation or handling of municipal waste.

LICENSE — A license or permit issued by the borough authorizing the collector to collect municipal waste generated in the borough or transport municipal waste in or through the borough to a municipal waste facility, a recycling facility or any other solid waste storage, collection, transfer, processing, recycling or disposal facility or site within or outside Lycoming County.

² Editor's Note: See 35 P.S. § 6018.101 et seq.

³ Editor's Note: See 53 P.S. § 4000.101 et seq.

MUNICIPAL WASTE — Any garbage, refuse, industrial lunch room or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operating of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant or air pollution control facility.

PARK OR PARKING — As defined in 75 Pa.C.S.A. § 102.

PERSON — Any individual, firm, partnership, corporation, association, institution, corporate enterprise, a municipality, a municipal authority, governmental agency or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In connection with any provisions of this article prescribing a fine, penalty, imprisonment, denial or grant of any license, or any cancellation or revocation of any license, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

§ 126-35. Licensing of collectors.

- A. No collector shall dispose of any municipal waste generated in the borough without obtaining a license, nor shall any collector transport any municipal waste in or through the borough without obtaining a license.
- B. A collector shall be required to obtain only one license. A separate license for each employee or motor vehicle shall not be required.
- C. The fee for such license shall be payable annually and fixed pursuant to a resolution of the Borough Council, and all licenses shall be issued for the calendar year, or such portion thereof as shall remain after the issuance thereof. There shall be no reduction in the fee for a license issued after the beginning of any calendar year.
- D. Every person who shall apply for a license under this section shall state the equipment to be used, the manner of collection and the place and method of disposal.
- E. No license shall be granted if the equipment, place or method of disposal does not conform to the requirements of this article, any ordinances of the County of Lycoming or any state or federal laws, rules or regulations.
- F. It shall be unlawful for any person to permit an unlicensed collector to dispose of municipal waste generated in the borough.
- G. The Borough Secretary is authorized to issue a license to a collector in accordance with the terms of this article.

§ 126-36. Schedules.

The collector shall prepare a schedule of municipal waste pickup for each household on a weekly basis. The collector shall be responsible to notify residents of the days collections will be made.

§ 126-37. Hours of operation.

The collection of municipal waste shall not commence before 5:00 a.m. and shall be completed by 6:00 p.m. on any single day of collection.

§ 126-38. Equipment of collector.

- A. The collector shall be required to collect and remove municipal waste in motor-driven vehicles having enclosed steel bodies with covers and watertight and nonleakable bodies, and to so conduct the collection, removal and transportation of the waste so as to assure general cleanliness and sanitation throughout the entire process and operation thereof.
- B. The collector's equipment shall be in compliance with all rules and regulations of the Pennsylvania Department of Environmental Protection and the Lycoming County Solid Waste Department.
- C. The collector shall also be required, at his own cost, to dispose of, at an approved disposal area, all quantities of waste collected by him, and to furnish, at his own cost, all vehicles, machinery and equipment.
- D. The collector is prohibited from parking or storing any motor-driven vehicle used for the collection, removal and transportation of municipal waste in any Residential R-1 District, Residential R-2 District or any Commercial District.
- E. The collector may park or store a motor-driven vehicle used for the collection, removal and transportation of municipal waste in a land conservation district or industrial district so long as it is not parked or stored within 150 feet of a residential dwelling.

§ 126-39. Inspection of equipment.

The borough, or its authorized designee, shall have the right to inspect the equipment of the collector for compliance with this article, the rules and regulations of the Department of Environmental Protection promulgated under the Pennsylvania Solid Waste Management Act, as defined in Section 75.29(i); Transportation Equipment, 25 (Pa. Code § 285.211 et seq., as amended), the rules and regulations of the Lycoming County Solid Waste Department and any other local, state or federal law.

§ 126-40. Disposal.

Each collector shall dispose of the waste at an approved disposal facility in accordance with the Lycoming County Solid Waste Management Plan.

§ 126-41. Assignment of license.

The collector shall not assign his license in whole or in part without the written consent of the Borough of Montoursville. Such consent does not release the collector from any of his or its obligations and liabilities under the license.

§ 126-42. Workers' compensation and social security.

The Workers' Compensation and Social Security Acts, as amended, are deemed a part of the license. The contractor shall be obliged to provide workers' compensation coverage, to the extent required by statute and shall fulfill the terms and save harmless the Borough of Montoursville and all its officers, agents and employees, successors and assigns, jointly and severally, of and from all manner of losses, suits, actions, payments, costs, charges, damages, judgments or claims or demands of any character, name or description brought on account of any injuries or damages received or sustained by any person, persons or property by reason of any act, omission, negligence or misconduct of said collector, his agents or employees in the execution of the license conditions.

§ 126-43. Collector as independent contractor.

The collector granted the license shall not in any manner be construed as an agent, servant or employee of the Borough of Montoursville but shall, at all times, be considered and remain an independent contractor.

§ 126-44. Insurance coverage.

The collector shall carry an insurance policy providing complete third party comprehensive liability and property damage insurance covering not only the collector but also the Borough of Montoursville, the limits of which shall be not less than \$300,000 to \$500,000 personal liability and \$100,000 property damage and shall furnish the proper certificates of insurance coverage to the Borough of Montoursville.

§ 126-45. Suspension or revocation of license.

The Borough Secretary shall revoke or suspend any license granted pursuant to this article when a collector violates any provision of this article or any rule or regulation promulgated pursuant hereto or violates any rule or regulation of the Pennsylvania Department of Environmental Protection or of the Lycoming County Solid Waste Department.

§ 126-46. Appeals process.

License denials, revocations or suspensions may be appealed to the Borough Council within 15 days of such denial, revocation or suspension. Such appeal shall be in writing and shall include but not be limited to a detailed statement of the reasons for the appeal. Such appeal shall be filed with the Borough Secretary. The Borough Council shall within 30 days hold a public hearing on such appeal, unless otherwise agreed to, and shall within 15 days after the conclusion of the hearing or hearings issue a written decision granting or dismissing the appeal. The failure of Borough Council to act within the time periods specified in this section shall constitute an affirmation of the denial, suspension or revocation. The decision of the Borough Council shall be final.

§ 126-47. Faithful performance.

Faithful performance must be of the essence of the license unless prevented by unavoidable accident, act of God or public immunity or any restrictions or embargoes imposed by the federal government or any agency thereof; and it is understood and agreed that all municipal waste shall be collected, removed and disposed of in a skillful and businesslike manner, satisfactory to the Borough of Montoursville.

§ 126-48. Evidence of satisfactory equipment.

The collector shall furnish evidence satisfactory to the Borough of Montoursville that he has available equipment, by ownership or by valid lease agreement, for collecting and disposing of municipal waste and that all equipment for the transporting of waste will comply with the equipment requirements of § 126-38 of this article.

§ 126-49. Borough authority.

The Borough Council shall have the power in its discretion to adopt and enforce rules and regulations for the enforcement of this article.

§ 126-50. Unlawful activity.

- A. It shall be unlawful for any person to cause or permit or assist in the violation of any provision of this article or any regulations promulgated pursuant thereto. Such unlawful activity shall be punishable as a violation of this article. All unlawful conduct shall also constitute a public nuisance.
- B. A violation of the rules and regulations of the Department of Environmental Protection promulgated under the Pennsylvania Solid Waste Management Act, as defined in Section 75.29(i): Transportation Equipment, as amended, or a violation of Lycoming County Solid Waste Management Ordinance or a violation of the rules and regulations of the Lycoming County Solid Waste Department shall also constitute a violation of this article.

§ 126-51. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600, plus costs of prosecution and, in default of payment of such fine and costs, to imprisonment for a term not exceeding 30 days. Every day that a violation of this article continues shall constitute a separate offense.

§ 126-52. Injunctive relief.

In addition to any other remedy provided in this article, the borough may institute proceedings to restrain any violation of, or to require compliance with, this article, any ordinance of the County of Lycoming or any state or federal law or rules and regulations.

§ 126-53. Concurrent remedies.

The existence or exercise of any remedy shall not prevent the borough from exercising any other remedy provided under this article, any ordinance of Lycoming County or any state or federal law, rule or regulation.