

**SWANA RECYCLING
TECHNICAL ASSISTANCE STUDY
FINAL REPORT**

**Improving Residential Curbside Recycling
Participation and Act 101 Recycling Compliance**

Prepared for:

**WEST DEER TOWNSHIP
ALLEGHENY COUNTY, PENNSYLVANIA**



Prepared by:

GANNETT FLEMING, INC.



HARRISBURG, PENNSYLVANIA

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SWANA RECYCLING TECHNICAL ASSISTANCE STUDY
EXECUTIVE SUMMARY
IMPROVING RESIDENTIAL CURBSIDE RECYCLING
PARTICIPATION AND ACT 101 RECYCLING COMPLIANCE

Based on GF's evaluation of the existing recycling program, West Deer Township can make changes to the current waste and recycling program that will result in higher recycling participation rates and improved compliance with the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101). A fundamental problem in the current waste and recycling program is poor recycling participation by residential and commercial establishments, which violates the Township ordinance (refer to Section 6.0 of the Report). The Township has also experienced collection service problems or negligence by the contracted waste and recyclables service provider. The key to maximizing the results of an enhanced residential program will be the development of an improved curbside waste and recyclables collection contract that ensures the selected contractor meets the desired level of recycling service established by The Township. The transition to an enhanced recycling program with improved participation will require the Township to implement an effective recycling educational program that includes heightened enforcement by the Township. Some of the key findings and recommendations include:

- Prior to the next round of municipal bidding, it is recommended the Township revise the existing municipal bid documents for curbside residential solid waste collection and disposal and recyclable material collection and delivery. The Township is encouraged to add provisions to these documents that improve the Township's ability to provide comprehensive, convenient and enforceable recycling services to residential establishments. Some suggested provisions include: requirement of the contractor to distribute educational materials and provide curbside feedback to households that do not comply with recycling (refer to Section 6.1); add a liquidated damages policy into the revised contract to foster better adherence to the terms of the collection contract; and, if feasible, change to a weekly curbside recyclables collection service option with 22-gallon or larger recyclables containers.
- For leaf waste collection equipment, curbside recycling containers, educational outreach and for other grant-eligible items associated with the recycling program, the Township should apply for an Act 101 Section 902 recycling grant funding for up to 90 percent reimbursement of these costs.
- To increase both residential and commercial sector recycling, it is recommended the Township review the information presented in Sections 6.1, 6.1.1, and 6.2 of this Report, and as feasible, implement the recommended strategies for improving recycling participation. The Township should evaluate a Pay-As-You-Throw (PAYT) waste collection system as a future collection system alternative. PAYT programs create a financial incentive for residents and for the Township to divert waste to recycling. PAYT has proven to increase participation in curbside recycling programs.
- The Township should update the Recycling Ordinance to reflect the changes to the waste collection system. The current Recycling Ordinance should be updated to specify recyclables reporting requirements from business and multi-family establishments and to better define a recycling enforcement program.

1.0 INTRODUCTION

Through the partnership with the Solid Waste Association of North America (SWANA), the Pennsylvania State Association of Township Supervisors, and the Pennsylvania Department of Environmental Protection (PADEP), West Deer Township (Township) was awarded \$7,500 in technical assistance to be provided by Gannett Fleming, Inc. (GF). The Township is requesting assistance to evaluate their recycling program with regards to compliance with the Municipal Waste Planning, Waste Reduction and Recycling Act of 1988 (Act 101). The Township also is seeking guidance on how to improve recycling participation from residential and commercial establishments.

1.1 Scope of Work

GF worked with the Township to develop the following tasks for this project.

- Task #1** GF will gather pertinent background information from the Township to evaluate the existing collection program and identify areas where the Township can improve compliance with Act 101. This task will include review of the existing waste and recyclables ordinance(s), and as needed a cursory review of waste collection contracts.
- Task #2** GF will provide a summary of basic Act 101 requirements that are applicable to the Township's waste and recycling program. GF will provide guidance that discusses possible areas of non-compliance and/or recommendations or alternatives that may be implemented by the Township to improve the Township's ability to implement/maintain a program compliant with Act 101.
- Task #3** GF will prepare and provide the Township with a summary report of findings and recommendations. This task includes a review of the report by the Pennsylvania Department of Environmental Protection (PADEP) and response to PADEP comments. Additionally, an electronic file of the final report will be submitted to PADEP of the project conclusions and findings. Both an electronic and hardcopy version of the report will be provided to the Township.

2.0 BACKGROUND

West Deer Township is located in Allegheny County. According to the 2000 US Census Bureau, the Township has a population of 11,563. The Township has approximately 4,900 occupied households. The Township has never had a strong recycling program. The recycling education program has struggled to clearly communicate recycling methods and requirements to residents. In addition, the surge in the number of new residents has not fared favorably for overall recycling performance. There appears to be poor participation and lack of recycling compliance by residential households and by businesses. Recycling totals do not reflect the increased number of residential units or the number of businesses in the Township. The Township wants to improve the recyclables collection program so that the recycling ordinance and recycling practices comply with Act 101.

3.0 EXISTING WASTE COLLECTION SERVICES

West Deer Township currently has a waste collection and recycling contract with Morrow Refuse, Inc. The contract expires December 31, 2007. Residents pay \$33.00 per quarter for unlimited weekly curbside trash collection and bi-weekly curbside recyclables collection. All trash must be bagged, boxed, bundled or contained for collection. Cans or bags cannot exceed a 45 gallon capacity. Trash is collected five days a week to provide complete coverage of the 30 square mile area. The service day for trash is also the service day for recyclables.

Residents who are 65 or older can participate in the Township's sticker program. Stickers are \$1.75 each and can be placed on any 30 gallon bag. Residents must purchase stickers from Morrow Refuse, Inc. on a regular basis to remain in the program.

3.1 Bulky Item and Tire Collection

Bulky (e.g. appliances and furniture) items are collected by the contracted waste hauler weekly. This cost for this service is included under the \$33.00 per quarter fee paid by residents for trash collection services. Residents are required to contact the hauler to schedule for bulky item pickup. Freon containing items such as refrigerators can also be collected, but at an additional service fee. Residents may place a maximum of two tires, without the rim, at the curbside for weekly pick up. Residents may call Morrow Refuse, Inc. for bulky item pick up for an additional per item fee.

4.0 EXISTING RECYCLING PROGRAM

West Deer Township is mandated by Act 101 to provide curbside recycling services to residential establishments. The Township uses the municipal bid process to secure curbside recycling services and currently Morrow Refuse, Inc. is under contract to provide bi-weekly curbside collection service for recyclables (plus weekly trash collection services). Residents currently use 22 gallon totes to set-out recyclables. The following Act 101 materials are collected from residential households:

- Clear glass
- Colored glass (green and brown)
- Aluminum
- Steel/ Bimetallic cans
- #1 & #2 Plastic bottles
- Newspaper

4.1 Leaf Waste Collection

Leaves are collected by the Township several times in the fall. The Township operates a small drop-off area for bagged leaf waste. Residents use 30 gallon biodegradable paper leaf composting bags for dropping off leaf waste material. These bags can be purchased through the Township at a cost of \$2.00 for five bags. The current contracted waste hauler, Morrow Refuse, Inc., collects grass clippings if they are bagged and dried. Bags of mixed yard waste can be dropped off year round behind the Township building.

Currently, PADEP guidelines for leaf waste collection require:

- **A minimum of two curbside collections are conducted annually for leaves, garden residue, shrubbery, tree trimmings, and similar material (i.e. brush).** To meet this requirement:
 - At least one fall collection is recommended by PADEP for leaves.
 - At least one spring collection is recommended by PADEP for leaf waste including garden residue, shrubbery, tree trimmings (or "brush"), and similar material.

Act 101 collection minimums may not meet the residential disposal needs for leaf waste. Therefore, as feasible, the Township is encouraged to offer residents a greater level of curbside collection services (and one or more supplemental drop-off sites) for leaf waste in order to minimize disposal of this material in local and regional waste disposal facilities. The Township is in the process of submitting for Section 902 Recycling Grant funds for up to 90 percent of eligible cost for leaf waste collection equipment. This equipment will be utilized to expand leaf waste collection services in a manner that will meet Act 101 requirements for curbside leaf waste collection in the Township. Although the Township can expand leaf waste collection services with the new leaf waste equipment (if the grant is successful), the Township may still consider outsourcing some level of curbside leaf waste collection to a qualified contractor. For example, some municipalities will secure a contractor to provide one or more spring collections that focus on garden residues, shrubbery and tree trimmings because they have leaf vacuum trucks for leaves but may not be equipped or staffed to collect this other material. A contractual arrangement may be most favorable if the contract is for collection only, and a local yard waste drop-off is available where no tip fee or only a nominal tip fee is assessed to the collector.

4.2 Commercial Recycling

Recyclables collection from commercial establishments is not included in the refuse and recycling contract with Marrow Refuse. Most commercial establishments located in the Township privately subscribe with one of several local private haulers for refuse. In some cases these businesses also contract for segregated recyclables collection. Usually segregated recycling is for cardboard and or office paper, which is collected in a dumpster or similar container outside the building. It is unknown how many commercial establishments actively recycle in the Borough.

5.0 REVIEW OF TOWNSHIP RECYCLING ORDINANCE

GF conducted a preliminary review the existing Township Recycling Ordinance No. 203, including "Attachment A", Recycling Program Regulations. This review was performed to identify possible inconsistencies with Act 101. Based on GF's review, the following was determined or noted:

General Comments:

- Generally, Ordinance 203 is consistent with and complies with the Act 101 requirements for implementing a curbside recycling program. **Appendix A** summarizes relevant Act 101 guidance, Municipal Waste regulations and PADEP guidelines for implementing recycling programs.
- Ordinance 203 is well-written in the aspect is allows the Township flexibility to make various changes to the recycling program (e.g. collection schedule, list of materials, etc.)
- It is suggested the Township coordinate any revisions to the recycling ordinance with the timing of implementing an enhanced municipal recycling program. This likely would correlate to a new waste and recycling contract term where new provisions are added to the bid document/collection and disposal contract that address recycling program implementation, education and waste and recycling enforcement.
- Ordinance 203 does not clearly define method for enforcing recycling violations. Although “Penalties” are included in the ordinance, the fines are set low and may not send a clear message that recycling violations will not be tolerated. Typically, ordinances that are structured with penalties, but have not clearly outlined enforcement procedures, are not an effective enforcement tool (i.e. no action is taken because of a cumbersome process). A primary hindrance can be the Court process, which is often laborious and requires to much time and effort to make it worthwhile to follow up with violations. The effectiveness of the ordinance and the ability of the Township to enforce the recycling program can be improved by:
 - delegating a Code Enforcement Officer or other designee to waste and recycling enforcement responsibilities;
 - implementing a citation process where the Code Enforcement Officer or designee issues warnings that are followed by citations (similar to parking tickets) for specific waste and recycling violations;
 - setting fines or citations at a high enough level (i.e. cost) to be a real deterrent.

The intent of an enforcement program structured in this manner is not to issue a large number of citations. Rather, it is to clearly inform residents through education and through warnings that violators who repeatedly fail to comply with the State and local recycling laws will face stiff penalties (e.g. \$500) if they do not change their behavior. An important part of making recycling and waste management enforcement work is a supportive Code Enforcement Department, a supportive local District Magistrate, and cooperation from the contracted hauling company.

Technical Comments:

- Under Sections 9. Collection and Documentation for Multi-Family Residential Dwellings of Three or More Units [Apartments]: To improve reporting compliance, it is suggested that the Ordinance specify a recyclables reporting requirement and date in which recycling reports are due to the Township from affected multi-family establishments. Since West Deer Township is required submit a report to the County on or before

February 15 of each year, the Township should indicate a date several months prior to February in order to organize the information and to follow up when feasible with establishments with delinquent reporting.

- Under Section 10. Collection and Distribution Commercial, Institutional or Municipal Establishments – Similar to the above comment, it is suggested that the Ordinance specify the date in which recycling reports are required to be submitted to the Township from commercial, institutional, and municipal establishments. Establishing reporting requirements and a due date will put the Township in a better position to obtain recycling data and have ample time to submit a recycling report to Allegheny County as required. Eligible recycling tonnages from these commercial establishments can be used for Section 904 Recycling Grants.

6.0 INCREASING RECYCLING PARTICIPATION

As mentioned in Section 2.0, Background, West Deer Township has struggled with residential and commercial recycling participation. There has been a surge in the number of new residents, which has increased the difficulty of achieving acceptable participation rates from households. The Township is in the process of increasing its recycling education efforts and has expanded the recycling information on the Township's website. The Township recently developed a new recycling flyer that will be distributed to residencies. The following Sections provide guidance and methods for increasing recycling participation from residential and commercial establishments.

6.1 Residential Sector Recycling Participation

Based on GF's experience with residential recycling programs across Pennsylvania, it is clear that recycling education is important in developing recycling awareness, but it is equally important to offer a convenient recycling, recycling incentives, and implement a program that has active enforcement by a Codes Enforcement Officer or other designee. With each of these components considered, GF encourages the Township to improve recycling participation from the **residential sector** as follows:

- Make sure the recyclables collection program is convenient for residents. Convenient recycling programs have consistent recyclables collection schedules where materials are not collected less frequently than bi-weekly, have adequately sized recyclables containers, collect a wide variety of recyclable materials, etc.
- Verify that the 22 gallon curbside recycling containers currently used provide adequate recycling capacity to meet residential recycling generation and disposal needs for the bi-weekly collection program. The Township should not assume that residents will take the initiative to get a second container for their household, even if they are available from the Township or elsewhere. The Township should consider that an enhanced recycling program will create higher participation rates and more container volume may be needed.

GF believes bi-weekly collection creates some inconvenience when compared to weekly recyclables collection. Because recyclables are collected bi-weekly in the Township,

some residents/households will forget which day is their recyclables collection day. If a household misses a recycling day in the Township's bi-weekly collection system, the household will need to store recyclables for a month. Because most household don't have room to store recyclables that accumulate, these materials will likely end up with the trash. Combining recyclables with trash reinforces to the household that disposal of recyclables with trash is the more convenient option. Because of the current participation problems, it is recommended the Township evaluate changing to a weekly collection schedule for recyclables. If weekly collection is not provided, the Township should identify households that generate higher than average quantities of waste and recyclables and provide these houses with additional containers. To determine the economic feasibility of offering weekly recyclables collection, a subsequent bid for curbside waste and recycling services could include two service/price options: weekly and bi-weekly curbside recycling service.

- The Township is encouraged to **restructure the municipal bid documents** and corresponding contract for curbside waste and recycling services to ensure that:
 - To the extent feasible, the collection services offered to residents are comprehensive, convenient, and create an incentive to recycle.
 - The selected contractor is required to distribute residential recycling information/recycling requirements via door hangers (or on a similar handout) at least twice a year. The Township can develop the door hangers or other educational materials that are distributed by the hauler. The bid specifications should be firm and clear on the haulers responsibility to distribute educational materials. A Township Enforcement Officer or another designee should separately assist with similar education/enforcement.
 - The Township should also work with the contractor to implement a quick response curbside feedback program. The contractor can be required to place stickers on trash cans and/or on recycling containers or on directly on items to provide immediate feedback at the curbside to residents who are not following Township and Act 101 procedures established for trash and recyclables preparation and collection. Some municipalities leave unaccepted recyclable items behind with a sticker indicating it is "not acceptable". It is not realistic that the hauler would be required to place stickers at every household that has a problem, but that the hauler would give feedback to households who clearly are not recycling properly.
 - The municipal bid documents and corresponding contract should contain a liquidated damages policy. Liquidated damages can be used to define a number of provisions related to waste and recycling collection performance as "breaches of contract". These breaches of contract can result in financial penalties (that vary in amount by the offense) that are assessed to the contractor when specific provisions are not met. A sample liquidated damages policy is provided in **Appendix B**. Although Performance Bonds are an important piece of collection and disposal contracts, it is important to note that recovering performance bonds has historically been very difficult. Going after the Performance Bond in a collection contract is generally not feasible for small infractions by the contractor.

- The Township should invest in the implementation of effective recycling education methods. Although websites can contain useful recycling information, it is not believed that residents often rely on municipal websites for guidance on trash disposal or recycling. Additionally, newsletters and flyers can contain helpful recycling information but only provide value when they are read and the instructions are followed. Usually, newsletters and flyers are quickly discarded along with other “junk mail”. GF identifies the following items as critical components of an effective recycling education program:
 - **Provisions in the waste and recycling collection and disposal contract** that require the contractor to participate in the recycling education program.
 - **Annual distribution of community event calendars** that include the waste and recycling collection schedule and list of accepted recyclable materials.
 - **Recycling containers labeled with recycling instructions** that can be either printed directly on the container or printed on a label that adheres to the container.
 - **Distribution of refrigerator recycling magnets** to households that lists the acceptable and unacceptable recyclables and provided the recycling schedule (if the schedule will fit).

Enforcement: To achieve high residential recycling rates, the Township should have an effective waste and recycling enforcement program. Some components of this program could include:

- If the Township continues to contract for curbside collection services, a clearly defined contract with liquidated damages will serve as an enforcement mechanism for the hauler/collector.
- Code Enforcement Officer or other designee that performs waste and recycling enforcement of households as part of his/her regular work tasks.
- The ordinance should be updated to reflect an improved enforcement program. The ordinance(s) should enable an enforceable process by which the Code Enforcement Officer(s) or other designee(s) have the ability to issue warnings and citations or penalties/fines. The designee could be the recycling coordinator.
- Periodic inspections should be conducted of waste and recyclables set-outs and feedback, warnings, and citations (for frequent offenders) should be issued to households.
- The Borough should solicit support from the local police and the local district justice to take waste and recycling violations seriously. Implementation of a quick penalty process for violators should be promoted.

6.1.1 Pay-As-You-Throw Waste Collection System

GF has recently completed recycling studies that evaluate the feasibility of implementing a Pay-As-You-Throw (PAYT) waste collection program. In PAYT programs, residents are required to

purchase each trash bag placed at the curb for pickup or pay a fee based on the number or capacity of trash containers that are used for curbside set-out of waste. Because residents are charged based on the quantity of waste disposed, PAYT creates a financial incentive for residents to divert materials to recycling. In other words, more recycling means less paid by the household for trash disposal. Based on GF’s research and conclusions, PAYT waste collection systems are favorable in terms of increasing residential recycling participation, which in turn maximizes the quantity of waste that is diverted from the landfill to recycling. As long as the Township pays the tipping fee, the Township can benefit from a similar financial incentive that is realized in the “avoided disposal costs” from reduced tip fees. Although PAYT program implementation in West Deer Township was not evaluated in detail as part of this study, a properly implemented PAYT program in the Township could markedly increase recycling participation.

6.2 Commercial Sector Recycling Participation

Many Pennsylvania businesses do not have an effective recycling program where most Act 101 recyclables are segregated from the waste stream. This is true even in mandated municipalities, like West Deer Township, where commercial establishments are required by law to recycle. Act 101 requires commercial, institutional and municipal establishments located in West Deer Township to recycle the following materials (as a minimum):

- **High-grade office paper**
- **Aluminum**
- **Corrugated paper**
- **Leaf waste**

*The Township Recycling Ordinance requires commercial establishments to recycle additional materials.

Poor recycling by businesses can be attributed to a lack of education, reluctance by companies to recycle, lack of enforcement and/or penalties for non-compliance and some other variables. Some businesses are deterred from recycling because adding recycling services may increase their annual collection costs. Businesses wishing to add recycling service typically will contract with a hauler to provide service in addition to trash service for segregated recyclables (e.g. separate cardboard dumpster and/or collection service for separate totes for cans, bottles, or other materials).

Act 101 requires the Township to educate businesses about Act 101 recycling requirements. It is the Township’s responsibility to educate businesses on recycling and to work cooperatively with local businesses and haulers concerning recycling responsibilities. Enforcing Act 101 requirements is also the responsibility of the Township. However, the individual establishments are responsible for arranging for collection and recycling of the designated Act 101 materials, unless another arrangements or agreement fulfills the Act 101 requirements.

It is important for commercial, institutional and municipal entities to provide written documentation to the municipality as to the type and weight of materials recycled annually. If this data is not collected, it will be nearly impossible to track commercial recycling efforts. Additionally, eligible reported commercial recycling tonnages are reimbursed through grant funds awarded by the Act 101, Section 904 Recycling Grant program. The Township is required to submit annual recycling reports to their host County for PADEP record.

GF encourages the Township to improve recycling participation from the **commercial sector** as follows:

- The Township can add provisions to a subsequent municipal bid for curbside waste and recycling services that allow small businesses to “opt-in” to the contracted residential waste and recycling collection program. This can increase the number of business that participate in recycling and comply with Township recycling requirements. Often businesses that generate a small quantity of waste can save money in this type of opt-in program because their dumpster service will be replaced by a less expensive can or bag service. Participating businesses can conveniently recycle in the same way as residential establishments.
- The Township should provide recycling information to all businesses at least twice per year. The information that is distributed to businesses should contain the following information:
 - The businesses’ recycling obligations under Act 101 and the Township ordinance.
 - Brief instructions that describe how businesses can contract with their existing trash hauler or another hauler to provide collection services for cardboard, office paper, and as needed, for collection of other recyclables such as cans, bottles, etc.
 - A list of local hauling companies, including telephone number, that can provide waste and recycling services to commercial establishments.
 - Explanation of the businesses’ recycling reporting requirements to provide a recycling report to the Township, including a commercial reporting form that indicates when the reports are due to the Township.

7.0 CONCLUSIONS AND RECOMMENDATIONS

West Deer Township has approximately 5,000 households and is continuing to grow. The Township recognizes that, as the community grows, so does the importance of implementing a comprehensive waste management system that meets the disposal needs of the community and simultaneously complies with the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101). The Township has already begun the process of evaluating the waste collection system, and is taking proactive steps to improve a struggling recycling program and to comply with Act 101 requirements for curbside recycling.

Based on GF’s evaluation of the existing program, the Township is in a good position to make changes to the program that will result in higher recycling participation rates and improved compliance with Act 101. The Township’s Recycling Ordinance (#203) appears to comply with Act 101, with the exception of meeting the Act 101 and the PADEP guidelines for curbside leaf waste collection. Although the leaf waste collection program is not presently in compliance with Act 101, the Township is pursuing Recycling Grant funds to procure leaf waste collection equipment that will improve leaf waste collection compliance.

“Non-compliance” is primarily a lack of recycling participation by residential and commercial establishments who violate provisions of the Township Ordinance by not participating in the recycling program as set forth by the Ordinance (refer to Section 6.0). Participation rates are negatively impacted by the structure of the existing waste and recycling contract and collection

system. Evidence supports that there may be inconvenience and confusion caused by the bi-weekly collection schedule. There is a lack of effective educational methods coupled by a lack of an effective collection system enforcement program. GF believes the Township's can implement a successful recycling program by restructuring the municipal bid documents and corresponding contract (i.e. collection system) for curbside waste and recyclables services. A future collection and disposal contract should be structured to ensure the collection system offers comprehensive curbside waste and recycling services that are convenient for residents. If feasible, the new recycling program should include incentives (e.g. PAYT) for the residents and the Township to encourage waste diversion and recycling. An enhanced waste and recycling program for the Township can only reach its maximum potential if the changes to the waste and recycling collection system and contract are accompanied by effective educational tools and active enforcement.

7.1 Recommendations

GF has provided guidance and recommendations throughout the body of this report and in the attached appendices. Some of the key findings and recommendations for West Deer Township are summarized below:

- Prior to the next round of municipal bidding, it is recommended the Township revise the existing municipal bid documents for curbside residential solid waste collection and disposal and recyclable material collection and delivery. The Township is encouraged to add provisions to these documents that improve the Township's ability to provide comprehensive, convenient and enforceable recycling services to residential establishments. Some suggested provisions include: requirement of the contractor to distribute educational materials and provide curbside feedback to households that do not comply with recycling (refer to Section 6.1); a weekly (or possibly bi-weekly) curbside recyclables collection service option with 22-gallon or larger recyclables containers; and a liquidated damages policy to foster better adherence to the terms of the collection contract by the contractor.
- When the timing is appropriate (e.g. prior to initiating a new collection and disposal contract term), the Township should update the Recycling Ordinance. The current Recycling Ordinance should be updated to specify recyclables reporting requirements from business and multi-family establishments and to better define a recycling enforcement program.
- For leaf waste collection equipment, curbside recycling containers, educational outreach and for other grant-eligible items associated with the recycling program, the Township should apply for Section 902 grant funding for up to 90 percent reimbursement of these costs.
- To increase both residential and commercial sector recycling, it is recommended the Township review the information presented in Sections 6.1, 6.1.1, and 6.2 of this report, and as feasible, implement the strategies that are recommended for improving recycling participation. It is recommended that the Township evaluate a Pay-As-You-Throw (PAYT) waste collection system as a future collection system alternative. PAYT programs create a financial incentive for residents and for the Township to divert waste to recycling. PAYT has proven to increase participation in curbside recycling programs.



Appendix A

Act 101 Guidance

ACT 101 REQUIREMENTS FOR MANDATED COMMUNITIES

Recycling is Pennsylvania law, and “mandated” municipalities are required to operate recycling programs in a manner consistent with the requirements of Act 101 (the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988) and Pennsylvania Department of Environmental Protection (PADEP) regulations, policies and guidelines. West Deer Township is mandated by Act 101 to implement a curbside recyclables collection program for residential establishments based on the municipal population criteria established by the Act. Act 101 does not specifically require municipalities to provide curbside collection of waste for its residents.

Under Section 1501 of Act 101, Pennsylvania municipalities (other than counties) are mandated to recycle based on population as follows:

- (1) Municipalities with populations of at least 10,000 must implement curbside recycling programs within two years of the effective date of Act 101 (by 1990).
- (2) Municipalities with populations between 5,000 and 10,000 and having more than 300 persons per square mile must implement curbside recycling programs within three years of the effective date of the Act (by 1991).
- (3) Population of municipalities shall be determined based on the most recent decennial census by the Bureau of the Census of the United States Department of Commerce. Municipalities that attain these population levels (and density, if appropriate) based on a new census become subject to Act 101 recycling requirements.

Section 304 of Act 101 explains the “Powers and duties of municipalities other than counties”. This section states the recyclable material reporting requirements for mandated municipalities as follows:

- (1) On or before February 15 of each year, each municipality other than a county that is implementing a recycling program shall submit a report to the county in which the municipality is located. The report shall describe the weight or volume of materials that were recycled by the municipal recycling program in the preceding calendar year.

CHAPTER 272 OF THE PADEP MUNICIPAL WASTE REGULATIONS

Under Act 101, mandated municipalities must establish and implement a source-separation and collection program for recyclable materials in accordance with Section 1501 of the Act (and as further defined in Chapter 272 of the PADEP Municipal Waste Regulations). The following information outlines Act 101/Chapter 272 requirements related to recycling for mandated communities in Pennsylvania.

Program Elements (§ 272.421 of Chapter 272)

The source separation program shall include, at a minimum, the following elements:

- (1) An **ordinance** or regulation adopted by the governing body of the municipality, in accordance with § 272.422 of Chapter 272 (relating to municipal ordinance).
- (2) A **scheduled day** during which separated materials are to be placed for **collection at the curbside**. Collection shall be **at least once per month** for materials other than leaf waste. Collection for leaf waste shall be scheduled as appropriate (see guidance later in this appendix on PADEP's policy for minimum acceptable collection frequency of leaf waste). If no curb exists, separated materials shall be placed at a location similar to the curb where they may be collected easily.
- (3) A **system**, including trucks and related equipment, that collects recyclable materials from the curbside or similar location at least once per month from each residence or other person generating municipal waste in the municipality.

Note - PADEP generally recognizes three basic systems that municipalities can use to provide mandated curbside collection of recyclables:

- Collection of recyclables by the municipality and municipal workers
 - Collection of recyclables by one private collection company (in some cases more than one company) under a contract with the municipality
 - Collection of recyclables by any number of private collection companies under private subscription with residents, pursuant to municipal recycling requirements established by the municipality
- (4) A public information and **education program**, in accordance with § 272.423 of Chapter 272 (relating to public information and education).
 - (5) Provisions for the recycling of collected materials.

Municipal Ordinance (§ 272.422 of Chapter 272)

- (a) The ordinance or regulation adopted by the governing body of the municipality shall contain the following requirements:
 - (1) **Persons** shall separate **at least three materials** from municipal waste generated at their homes, apartments and other **residential** establishments, and shall store the

materials until collection. The three materials shall be designated in the ordinance, and shall be chosen from the following:

- **Clear glass**
- **Colored glass**
- **Aluminum**
- **Steel and bimetallic cans**
- **High-grade office paper**
- **Newsprint**
- **Corrugated paper**
- **plastics**

(2) Persons shall **separate leaf waste** from municipal waste generated at their homes, apartments and other **residential** establishments until collection, unless those persons have otherwise provided for the composting of leaf waste.

(3) Persons shall separate the following materials generated at **commercial, municipal or institutional establishments** and from community activities, and store the materials until collection:

- **High grade office paper**
- **Aluminum**
- **Corrugated paper (cardboard)**
- **Leaf waste**

The ordinance may designate additional materials for recycling by these establishments.

(b) The ordinance shall allow an owner, landlord or agent of an owner or landlord of multifamily rental **housing properties with four or more units** to comply with its responsibilities under this subchapter by establishing a collection system for recyclable materials at each property. The collection system shall 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. Owners, landlords and agents of owners or landlords who comply with the ordinance under this subsection are not liable for the noncompliance of occupants of their buildings.

(c) The ordinance shall exempt persons occupying commercial, institutional and municipal establishments within its municipal boundaries from the ordinance if the following requirements are met:

(1) The persons have otherwise provided for the recycling of materials that they are required by this subchapter and the ordinance to recycle.

(2) The persons annually provide written documentation to the municipality of the amount of municipal waste generated as well as the type and weight of materials that were recycled in the previous calendar year.

(d) Nothing in the ordinance or regulation may impair the ownership of separated materials by the persons who generated them until separated materials are placed at curbside or similar location for collection by the municipality or its agents.

Public Information and Education (§ 272.423 of Chapter 272)

- (a) A municipality subject to this subchapter shall establish a comprehensive and sustained public information and education program concerning recycling program features and requirements. As part of this program, a municipality shall, at least 30 days prior to the initiation of the recycling program and at least once every 6 months thereafter, notify persons occupying residential, commercial, institutional and municipal premises within its boundaries of the requirements of the ordinance. This notice shall include an explanation of how the system will operate, the dates of collection, and responsibilities of persons within the municipality and incentives and penalties.
- (b) The governing body of a municipality may place an advertisement in a newspaper circulating in the municipality, post a notice in a public place where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or utilize a combination of the foregoing.

Implementation (§ 272.424 of Chapter 272)

- (a) Except as provided in subsection (b), a municipality shall implement its responsibilities for collection, transportation, processing and marketing materials under this subchapter in one or more of the following ways:
 - (1) Collect, transport, process or market materials as required by this subchapter.
 - (2) Enter into contracts with other persons or license other persons for the collection, transporting, processing or marketing of materials as required by this subchapter. A person who enters into a contract or is licensed under this subsection shall be responsible with the municipality for the implementation of this section.
- (b) Nothing in this subchapter requires a municipality to collect, transport, process and market materials or to contract for the collection, transportation, processing and marketing of materials from an establishment or activity if the following are met:
 - (1) The municipality is not collecting and transporting municipal waste from the establishment or activity.
 - (2) The municipality has not contracted for the collection and transportation of municipal waste from the establishment or activity.
 - (3) The municipality has adopted an ordinance as required by this subchapter, and the establishment or activity is in compliance with this subchapter.

Preference (§ 272.425 of Chapter 273)

In implementing its recycling program, a municipality shall accord consideration for the collection, marketing and disposition of recyclable material to persons engaged in the business of recycling on September 26, 1988 (the effective date of Act 101), whether or not the persons were operating for profit.

Leaf Waste Collection and Burning Requirements for Mandated Municipalities

PADEP emphasizes the importance of establishing an anti-burning ordinance to reduce the amount of Act 101 recyclable materials that are burned in municipalities that permit open burning. PADEP provides assistance and encourages municipalities to implement anti-burning ordinances. In some cases, PADEP can withhold Act 101 funding from municipalities who do not have anti-burning regulations in place.

Under Act 101, “**Leaf waste**” is defined as leaves, garden residue, shrubbery and tree trimmings, and similar material, but not including grass clippings. Collection of other yard waste materials (e.g. grass clippings), is not required by the Act 101 recycling mandate, but is sometimes included in collection programs in mandated curbside recycling municipalities.

Act 101 and PADEP guidelines require the following for handling leaf waste in mandated communities (as incorporated into the municipal Ordinance):

- 1. Prohibit the burning of recycled materials** collected within the municipality, **including leaf waste**
- 2. A minimum of two curbside collections should be conducted annually for leaves, garden residue, shrubbery, tree trimmings, and similar material (i.e. brush).** To meet this requirement:
 - At least one fall collection is recommended by PADEP for leaves.
 - At least one spring collection is recommended by PADEP for leaf waste including garden residue, shrubbery, tree trimmings (or "brush"), and similar material.

* Importantly, these collection minimums may not meet the residential disposal needs for this material. Therefore, when feasible, municipalities are encouraged to offer residents a greater level of curbside collection services (and one or more supplemental drop-off sites) for leaf waste in order to minimize disposal of this material in local and regional waste disposal facilities.

Drop-off Sites for Recyclables or Leaf Waste

In mandated communities, drop-off recycling or drop-off systems for leaf waste are not an option in terms of replacing curbside collection for residential, commercial, institutional or municipal establishments. Drop-off sites are optional for recyclables in the sense that they can supplement a curbside collection system.

Mandated municipalities are required to provide or offer a location for leaf waste drop-off (i.e. inform residents of the drop-off site through education). The leaf waste drop-off site could be a county facility, neighboring municipality, private location, landscaper, tree farm, etc. It is not required that each mandated community operate its own drop-off location. If a leaf waste drop-off is not established for leaf waste in a mandated municipality, the municipality can meet the Act 101 requirement for leaf waste by providing a minimum of once per month curbside residential collect of leaf waste.

Appendix B

Sample Liquidated Damages Policy

SECTION _
Sample Liquidated Damages Policy

The _____ or his/her designee shall notify the Proposer for each violation of the Agreement reported to or discovered by him/her for the Municipality. It shall be the duty of the Proposer to take whatever steps may be necessary to remedy the cause of the complaint and notify the Municipality in writing of its disposition within twenty-four (24) hours after receipt of complaint.

The following acts or omissions shall be considered a Breach of Contract and for the purpose of computing damages under these provisions.

1. Failure to clean up solid waste spilled by Proposer within six (6) hours of oral or written notification ----- \$50.00 each instance.
2. Failure to maintain vehicle in a manner which prevents nuisances such as leaky seals or hydraulics----- \$100.00 each instance.
3. Failure or neglect to collect solid waste, recycling, (or yard waste/bulky goods if part of the proposal) at those times provided by the Agreement within 24-hours after either oral or written notice by municipality ----- \$50.00 each instance.
4. Failure or neglect to provide notice to resident upon solid waste refused for collection for cause ----- \$25.00 each instance.
5. In addition to above, failure or neglect to correct chronic problems will be considered a Breach of Contract----- \$50.00 each instance.
Chronic problems shall be construed to be three or more occurrences of items (1), (2), or (3) immediately above at the same address within any period of six (6) consecutive months whether or not remedied within 24-hours or four hours in the case of spilled solid waste.
6. Failure to collect recyclables, which are properly prepared and placed for collection as part of the collection program----- \$25.00 each instance.
7. Missing entire blocks/neighborhoods. A missed block is defined as a block where residents from at least three (3) households within two intersections of that block or cul-de-sac report that their material was out before 7:00 a.m., the material was not picked up and the addresses did not appear on the records as unacceptable setouts ----- \$250.00 each instance.
8. District-wide collection not completed. The failure to complete a majority (50% or more) of pickups within the municipality or collection district on the scheduled collection day without following proper notification procedure ----- \$2,500 per instance.

Hauler must maintain an escrow account of \$5,000 with the municipality to be used for payment of any liquidated damages. Any unused portion of the deposit shall accrue interest at 5% simple annual interest and will be returned to the Proposer at the end of the contract period.

The _____ or his/her designee will inform Proposer when or if the escrow account needs to be replenished.