

**SWANA RECYCLING
TECHNICAL ASSISTANCE STUDY**

FINAL REPORT

**REVIEW OF ACT 101 COMPLIANCE
IN THE CITY OF LEBANON**

**CITY OF LEBANON
LEBANON COUNTY**



GANNETT FLEMING, INC.



HARRISBURG, PENNSYLVANIA

JUNE 2007

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Table of Contents

	<u>Page</u>
1.0 INTRODUCTION	2
1.1....Scope of Work	2
2.0 BACKGROUND	2
3.0 EXISTING RECYCLABLES AND WASTE COLLECTION SYSTEM	3
3.1 .Curbside Recycling	4
3.2....Drop-off Recycling	4
3.3....Recyclables Revenues and Grant Reimbursement	5
4.0 RECYCLING ORDINANCE REVIEW AND QUESTIONS AND ANSWERS	5
4.1....General responses	5
4.2....Specific Questions from City Staff and Responses by Gannett Fleming	6
4.3....Solid Waste Ordinance Review and Examples.....	11
5.0 SINGLE-HAULER COLLECTION SYSTEM RECOMMENDATIONS	11
6.0 CONCLUSIONS AND RECOMMENDATIONS	13
6.1....Conclusions	13
6.2....Recommendations	14

APPENDICES

- Appendix A** – PADEP Municipal Recycling Program Evaluation and Letter
- Appendix B** - Example Liquidated Damages Policy
- Appendix C** - Example Ordinances
- Appendix D** – PADEP Leaf Waste Guidance (2007)

SWANA RECYCLING TECHNICAL ASSISTANCE STUDY
- EXECUTIVE SUMMARY -
REVIEW OF ACT 101 RECYCLING COMPLIANCE
IN THE CITY OF LEBANON

The City of Lebanon (City) is a multi-cultural city in Pennsylvania with approximately 10,500 residential housing units. Nearly 20 percent of the population is Latino or Hispanic and 70 percent of the residential establishments are rented. The City has worked diligently to implement its residential curbside waste and recycling program within this challenging demographic setting and has been successful in developing recycling educational materials in English and Spanish. The City has also established cooperative business relationships with the local private waste hauling companies and has fostered an effective waste and recycling enforcement program that is supported by the District Justice.

The City's recycling program was audited by the Department of Environmental Protection (PADEP) in May 2006. PADEP identified program deficiencies and several aspects of the City's solid waste and recycling ordinance that were inconsistent with the Municipal Waste Planning, Waste Reduction, and Recycling Act of 1988 (Act 101). In this study, GF reviewed the City's waste collection system with emphasis on providing guidance to the City for revising the existing ordinance to comply with Act 101 and PADEP policies and guidelines. Detailed conclusions and recommendations are contained in Section 7.0 of this report. As summarized, it is recommended the City:

- **Revise the City's solid waste and recycling ordinance:** The City should revise the current solid waste ordinance to bring the City into compliance with Act 101 and to improve the City's ordinance to be a more effective implementation tool that accurately reflects the City's desired waste collection and recycling program:
 - Modify the recycling ordinance to define "leaf waste" as it is defined by Act 101.
 - Establish the minimum curbside collection frequency for leaf waste.
 - Ensure Act 101 recycling requirements in the City ordinance apply to all residents.
 - Community activity/event recycling requirements should be added to the ordinance.
 - Consider adding language to address missed waste pickups into the ordinance.
 - Evaluate the use of a Policies and Procedures document attached to the ordinance that contains the details of the City's recycling program.
- **Implement structural changes to the City's waste collection system:**
 - Require, at a minimum, bi-weekly collection of recyclables by all haulers.
 - Require collection of the same recyclable materials by all haulers.
 - Expand the curbside collection of the paper or fiber stream to include newspaper plus other grades of mixed paper (e.g. junk-mail, magazines, cardboard, etc.).
 - Ensure all City residential establishments have adequate curbside residential recyclables containers (i.e. One 25-gallon container AND one 14-gallon container for mixed paper).
 - Require landlords to post recycling information (multi-lingual) in all rental units.
 - Finalize plans and establish a leaf waste drop-off site in 2007 for City residents.
 - Pursue Act 101, Section 902 Recycling Grants and Act 101, Section 904 Recycling Performance Grants.
- **Evaluate Implementation of a Single-hauler Waste Collection Contract:** The City should further evaluate and consider to the implementation of a single-hauler contract collection system, which will provide the City and its residents a more economically feasible and comprehensive waste and recycling program that will be easier to oversee and to enforce than the current private subscription system.

SWANA RECYCLING TECHNICAL ASSISTANCE STUDY
FINAL REPORT
REVIEW OF ACT 101 RECYCLING COMPLIANCE
IN THE CITY OF LEBANON

1.0 INTRODUCTION

The City of Lebanon (City) is located near the center of Lebanon County in Pennsylvania. The City is in the process of updating its solid waste and recycling ordinance. 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), the City was awarded \$7,500 in technical assistance provided by Gannett Fleming, Inc. (GF) in the completion of this study and report. The City requested assistance with revising the solid waste ordinance and providing guidance to ensure the City complies with PADEP requirements and the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101).

1.1 Scope of Work

GF will work with the City to identify the following tasks to be completed during this study:

- Task #1** GF will gather and review background information on the existing waste and recycling program. GF will review information pertaining to the recycling program audit conducted by PADEP in May 2006. GF will review the existing solid waste and recyclables collection ordinances, focusing on areas pertinent to recycling compliance.
- Task #2** GF will develop guidance and recommendations related to improving the City's ordinance. GF will prepare a "comments" section in the report to discuss issues with the ordinance and possible solutions. As identified, other general suggestions will be offered that can improve the ordinance content.
- Task #3** GF will prepare and provide the City with a summary report of findings and recommendations. This task included a review of the report by PADEP and response to PADEP comments. Additionally, an electronic file of the final report was submitted to PADEP. Both an electronic and hardcopy version of the report will be provided to the City.

2.0 BACKGROUND

In May 2006, the City of Lebanon's recycling program was audited by PADEP. This municipal recycling audit was the first of its kind conducted by PADEP. PADEP performed the recycling audit to help the City identify recycling program deficiencies, and as part of this review process, offered the City recommendations for improving the recycling program. The recycling audit included a review of the City's recycling ordinance. PADEP noted areas where the ordinance and program are out of compliance with Act 101. The audit review and recommendations were

summarized by PADEP into a Municipal Recycling Program Evaluation and Survey. The PADEP letter and evaluation are contained in **Appendix A**. To provide guidance to the City, GF's recycling evaluation included a review of the City's recycling ordinance with consideration of PADEP's recycling audit and corresponding comments, recommendations, and background information. Because of the legal nature of some of the issues pertaining to the proper implementation of the City's waste and recycling program and corresponding ordinances, GF used our experience with other municipalities to provide general guidance and/or examples, which is not a substitute for the expert opinions of the City's solicitor or other legal counsel.

2.1 Demographics and City Challenges

The City faces a number of challenges, including many problems that complicate the implementation of a comprehensive waste collection system. The City currently has a growing Hispanic and Latino population that is about 20 percent of the City's total population. The City's Vietnamese population is also expanding. Over 70 percent of the community is comprised of rental properties. These demographic factors create obstacles, particularly language barriers, which make waste and recycling education more difficult and generally increase the level of effort and cost needed to educate residents and to manage waste and recycling.

Beyond demographics, this City is also in a period of flux. The Sewer Authority is in the process of breaking away from the City, leaving some serious questions on the table for City elected officials. Additionally, local and regional court cases related to hauler licensing have brought uncertainties to what 'powers and duties' the City has as they relate to waste management. Each of these factors impacts the City and increase the City's awareness that this is an important time for evaluation and change.

3.0 EXISTING RECYCLABLES AND WASTE COLLECTION SYSTEM

The City has roughly 24,500 residents living in approximately **10,500 residential units**. Most households in the City have "private subscription" waste collection service, where homeowners independently contract with one of several private waste hauling companies for curbside trash collection services and/or recycling service. GF contacted a City resident in June 2007 who indicated they pay **\$79 per quarter** or **\$316 per year** for waste and recycling service provided by Warren Whitman & Sons. An unknown number of households may not subscribe for service and may share another household's service or find other illegal ways to dispose of waste. The City receives approximately 30 garbage-related complaints per week.

There are five private haulers operating in the City, which are licensed by the Greater Lebanon Refuse Authority (GLRA). Municipal waste collected in the City is taken to the landfill located at 1610 Russell Road in Lebanon, Pennsylvania. The landfill is operated by the GLRA. The GLRA tipping fee for municipal waste is currently **\$62.70 per ton**.

3.1 Curbside Recycling

Curbside recycling is mandated for residential establishments in the City of Lebanon by Act 101 and the City's recycling ordinance. Curbside recyclables collection services are provided to households by any one of the five licensed haulers that operate in the City. The licensed private haulers are required to offer residential curbside recycling services along with trash service. Recycling services and collection schedules vary depending on which private hauler is contracted by the household for trash and recycling collection services. After collection, most curbside collected recyclables are taken to Recycle America in Palmyra.

At a minimum, city residents are required to recycle the following materials :

- **Aluminum cans**
- **Steel/bi-metallic cans**
- **Clear and colored glass**
- **Leaf waste**

Aluminum, steel/bi-metallic cans and glass are collected commingled in 25-gallon plastic bins that are provided to households by the City. Bins can be obtained at the Highway Garage located at 8th and Oak Streets. According to the City's 2005 annual recycling report, the City's curbside recycling program collected approximately 1,300 tons of Act 101 materials comprised of:

- **Leaf waste** (~720 tons)
- **Commingled containers** (~580 tons)

The program recently began collecting newspaper curbside in 14-gallon plastic containers.

3.2 Drop-off Recycling

The City has a public recycling drop-off center, located at 14th and Lehman Streets, on property owned by Brandywine Recyclers, Inc. This drop-off site supplements the curbside program provided to residents. The facility is open to the public Tuesday, Thursday, and Friday from 11:00 a.m. till 5:00 p.m. and Saturday from 8:00 a.m. till 3:00 p.m. The drop-off facility is staffed during operating hours and accepts the following materials:

- | | |
|---------------------------------------|-------------------------|
| ▪ Clear and colored glass | ▪ Magazines |
| ▪ Aluminum cans | ▪ Newspaper |
| ▪ #1 and #2 plastic containers | ▪ Junk mail |
| ▪ Steel and bi-metallic cans | ▪ Office paper |
| ▪ Cardboard | ▪ Wrapping paper |
| ▪ Phonebooks | |

The Greater Lebanon Refuse Authority also accepts the following materials for drop-off:

- | | |
|---------------------|--|
| ▪ Yard waste | ▪ White goods/freon-containing appliances |
| ▪ Clean wood | ▪ Tires |

3.3 Recyclables Revenues and Grant Reimbursement

The City generates a small amount of revenue from recyclables taken to Brandywine Recyclers but does not receive any revenues from recyclables collected curbside by local private haulers. The City submitted for Act 101, Section 904 Recycling Performance Grants in 2006. The grant program is based on the weight of eligible recycled material reported from residential and commercial sectors in the previous year. The grant award amount for the city is not known at this time.

4.0 RECYCLING ORDINANCE REVIEW AND QUESTIONS AND ANSWERS

GF reviewed the City’s recycling ordinance and addressed five multipart questions provided to GF by the City. PADEP’s Municipal Recycling Program Evaluation identified the following deficiencies of the current recycling ordinance with Act 101, Section 1502 (c) requirements:

- 1) **It (the solid waste ordinance) fails to establish a mandatory collection program/schedule for the curbside collection of source separated recyclables;**
- 2) **It fails to address leaf waste as defined by the Act;**
- 3) **It provides an exemption from recycling for certain residents with disabilities.**

The list of questions provided by City’s Recycling Coordinator included inquiries about: the current ordinance; PADEP comments from the Municipal Recycling Program Evaluation; and questions related to implementing their waste and recycling programs (e.g. hauler licensing). The following sections present each question posed by the City and each answer provided by GF. Because of the legal nature of some of the questions, GF could not offer “legal advice”, but shared our knowledge and offered alternatives that have been used (with varying degrees of success) in other municipalities.

4.1 General responses

In regard to modifying the Recycling Ordinance to reflect changes to details of the recycling program, **we recommend the City place as many of the waste and recycling program details in a Policies and Procedures (P&P) document that is referenced in the Recycling Ordinance. Schedules and other items that are subject to frequent change should be incorporated into the P&P rather than directly into the ordinance.** This approach will allow the City to modify/revise details of the program further, when needed, without having to go through a full ordinance revision and amendment process with City Council. The Lancaster County example ordinance packet provided to the City by PADEP, as an attachment to the audit report, uses the format of a P&P document separate from the ordinance. Although GF sees value in the P&P approach, it is noted that the ordinance packet from Lancaster County offers a limited value to the City as an example for modifying the City of Lebanon ordinance. Lancaster County’s waste management and waste disposal system and infrastructure is managed nearly in its entirety through the Lancaster County Solid Waste Management Authority (LCSWMA) and is distinctly different than the waste collection a disposal system and markets available to the

City of Lebanon and Lebanon County. Ultimately, use of the P&P approach is a legal decision for the City that must consider a number of factors beyond the scope of this study.

4.2 Specific Questions from City Staff and Responses by Gannett Fleming

Q1. I have no idea what is wrong with the section 930.09 Mandatory Source Separation of Leaves. DEP's letter claims that we are failing to address leaf waste as defined by the Act. The only thing that I can see wrong is we state "set forth each year at the onset of Fall" we should drop the word fall and re-word that.

A1. Ordinance Section 930.09, Mandatory Source Separation of Leaves, repeatedly refers to "leaves" but does not state or define "Leaf Waste" as it is defined by Act 101. Because of this, the ordinance implies that it regulates the collection of leaves only. Also, Section 930.09 only refers to a fall collection, which does not meet the monthly minimum set forth by Act 101 or the spring and fall collections specified in DEP guidance.

For mandated municipalities such as the City of Lebanon, Act 101 requires residential *curbside collection of leaf waste*, including **leaves, garden residues, shrubbery, and tree trimmings and similar material, but not grass clippings**. Since leaf waste material is not typically generated throughout the year, PADEP has established policies and guidelines for mandated municipalities (i.e. minimum standards) to determine compliance with the leaf waste collection requirements of Act 101 (refer to **Appendix B**). Please note that meeting the minimum curbside collection requirements for leaf waste may not meet the actual disposal needs of this material from residential establishments, particularly those with larger grass lots and/or trees. According to current PADEP interpretation, acceptable methods that mandated municipalities may use to comply with Act 101's leaf waste collection requirements include:

Minimum Leaf Waste Collection Methods

- a. Provide monthly curbside collection for all residents as prescribed by Act 101, FOR ALL LEAF WASTES (this is not typically done by PA municipalities), or;
- b. Provide ALL of the following: 1) at least one curbside collection for **leaves** only between October 1 and March 1 (typically a fall leaf pickup); 2) at least one collection for **garden residues, shrubbery, and tree trimmings and similar material, but not grass clippings** between March 1 and October 1 (typically a spring yard/garden cleanup/pickup), AND; 3) one or more drop-off locations for residents to take leaf waste.

As stated above, the City's recycling ordinance should define and refer to **leaf waste**. To address leaf waste collection requirements, the City's ordinance should be revised to:

- State the minimum leaf waste curbside collection frequency for a mandated municipality that has a supplemental leaf waste drop-off (pending for the City). The minimums are one fall collection of **leaves** and one spring collection of **garden residues, shrubbery, tree trimmings and similar material, but not grass clippings** (refer to Minimum Leaf Waste Standards, Option b., above).

- Reference the leaf waste drop-off location, which is currently in the planning stages by the City. Describe materials accepted and the hours of operation of this drop-off site. It is suggested that the City place language in the ordinance indicating the City has the flexibility to change the days and hours of operation; or consider use of a Policy and Procedures document for these details.
- Should the City want to provide more leaf waste collections than the minimum as described above, it is recommended that the City's recycling ordinance be revised to prescribe "leaf waste collection as required to comply with Act 101." This allows the City the flexibility to determine whether to do more than the minimum collections without requiring further changes to the ordinance.
- Many of the details of the leaf waste program can be included in a Policies and Procedures document. For example, if the City elects to exceed the minimum Act 101 collections for leaf waste or modify collection schedules or methods, details of the leaf waste program such as these can be included in a P&P document and modified as needed from time to time.

All collected leaf waste must go to a PADEP-approved site (which can include county sites, municipal sites, private sites, or land application sites). These sites should be permitted or approved (e.g. permit-by-rule) by PADEP. Nothing in Act 101 precludes homeowners from backyard composting, mulching, etc. on site. In the City, where there are so many rental units and multi-family establishments, the owners of these establishments will be responsible for complying with leaf waste requirements.

Q2. 930.10 – Licensing. This whole section needs an overhaul. Some of it still addresses issues of the past, when the City licensed it's haulers. This has since been turned over to the Greater Lebanon Refuse Authority (GLRA).

A2. Hauler licensing is a gray area due to ongoing legal cases and differing legal opinions on how licensing may be implemented by local municipalities and counties. GF's guidance is based on our experience, but is not a substitute for sound legal advice from a solicitor or other legal counsel.

Act 90 (2002) states that, notwithstanding anything in the PA Solid Waste Management Act of 1980 or in PA Act 101, no county or municipality may implement a municipal waste or residual waste transportation, authorization or licensing program after the effective date of Act 90 (July 2002). This would appear to override the section of Act 101 (Section 303 (a)) that provides counties with the authority to issue permits and regulate the processing and disposal of municipal waste generated within their borders.

Originally, common interpretation of Act 90 was that the licensing restrictions applied to establishment of new licensing programs only, but recent court cases have changed the original interpretation.

Drawing from guidance provided by legal counsel on other recent projects that GF has worked on, we share the following:

- In a March 2005 court case (PA Independent Waste Haulers Assoc. v. Township of Lower Merion), PA Commonwealth Court ruled that municipalities lack the authority to enforce licensing and inspection provisions of local ordinances concerning municipal waste haulers. The PA Supreme Court refused to hear an appeal to this case.
- In another PA Commonwealth Court ruling (IESI PA Bethlehem Landfill v. County of Lehigh) in December 2005, Lehigh County argued that Act 90 (2002) only prohibited new licensing programs after passage of Act 90; Lehigh County's position was originally upheld in County Court, but was overturned in December 2005 by the Commonwealth Court. Lehigh County has decided not to appeal this ruling to the PA Supreme Court, thereby letting the Commonwealth Court ruling on the case stand.

GF's legal counsel has advised elsewhere that these recent court decisions will apply statewide – until reversed by the Commonwealth Court or the Pennsylvania Supreme Court (which is unlikely in the near future). Many PA municipalities with licensing programs are unsure how to proceed.

In the Lower Merion Township case, the court made a ruling distinction: while municipalities cannot regulate waste hauling trucks operating within their borders, they can regulate waste containers located in the municipality to protect the health, safety, and welfare of their residents. In the City of Lebanon, the City's rights to protect the health, safety, and welfare of its residents fall back to the City Code rights and responsibilities, and what the City is empowered to do regarding trash and garbage accumulation. This demonstrates that the City retains rights to regulate waste (to protect its residents' health, safety and welfare), whereas counties appear to have lost the right to license haulers through Act 101. Confirming the legal details of licensing as it pertains to the City will require review and advice from the City's solicitor, and as needed, other legal counsel.

Hauler Permits: Lancaster County is currently advocating a “hauler permit” program to regulate and establish requirements for haulers. There is no license fee collected: proponents of this system feel this is an important distinction from licensing. The City of Lancaster and other Lancaster County municipalities have adopted this hauler permit system. The City of Lancaster's solicitor has reportedly reviewed and found the permit system acceptable. However, legal advice to GF from another attorney (on a different project) advised that a permit system with no fee may be just another form of licensing, and is therefore probably not valid.

Some counties and municipalities have dropped hauler licensing programs altogether. In cases where licensing has been “dropped”, municipalities sometimes have, and other times have not, updated (i.e. deleted or changed licensing language) their ordinances to reflect the program change. Still other municipalities have chosen to keep licensing programs in effect until they are challenged legally. Some municipalities have taken a wait-and-see approach while court cases proceed. Lancaster County and its municipalities are an example of a region that has been proactive and has implemented an alternative approach to licensing.

The City of Lebanon has previously ceased City licensing of haulers in deference to Lebanon County's licensing program (i.e. GLRA), although the City's hauler licensing requirements are

still contained in City ordinances. The GLRA is still actively applying its licensing program to haulers but is currently reviewing this program. The GLRA and Lebanon County are currently in litigation with a hauler from within the County. The litigation involves a hauler's challenge of fees assessed on waste generated in the County but that is disposed in another state. There are other hauler licensing issues tied to this litigation as well. This litigation is ongoing, and the City should contact the County's and GLRA's solicitors to verify the current status of this litigation. GRLA counsel may be valuable in this process to determine the appropriate approach to address these issues within the County. Working with the GLRA will ensure that the City of Lebanon's ordinances are in step with the County's Solid Waste Plan and GLRA's solid waste policies.

GF encourages the City to seek guidance from its solicitor or seek advice from other legal counsel on determining one of the following courses (and possibly others) of action for handling hauler licensing in the City's ordinance:

- 1) **Drop wording related to the City's licensing program** in the ordinance, and instead reference Lebanon County's (GLRA) licensing program in the City's ordinance, or;
- 2) Leave the hauler licensing language as is, and take a **wait-and-see approach** with changes to the licensing program, to allow time for other programs to make changes. This may allow the City to model their revisions from one or more program(s) that have successfully implemented licensing changes, or;
- 3) **Delete references to licensing in the City's ordinances**; or
- 4) **Modify the City's licensing program to license containers (i.e. the truck bodies used for carrying municipal waste and possibly roll-off containers, dumpsters, etc.) rather than license the haulers.** This license program could be implemented on the premise of the City implementing a program to protect the health, safety and welfare of City residents in a manner consistent with City Code rights and responsibilities. This option has been previously used in PA. As understood by GF, it has worked legally but it may not be practical to license roll-off containers and dumpsters due to the fact that many hauling companies may switch containers for use in other municipalities and locations, which make the tracking of this license program very difficult. It may be reasonable, however, and within the powers of the City, to require licensing of all truck bodies/vehicle compartments that are used to collect and transport municipal waste generated by the City. GF encourages the City to review the legality of this approach with a solicitor or other legal counsel as well as the feasibility of this approach within a multi-hauler collection system.

The myriad of outcomes in recent case law, and conflicting legal opinions on the topic prevent the formation of a clear and legally acceptable vision regarding licensing. Alternative approaches, such as Lancaster County's permit approach (no fee), are in the early stages of implementation; it is unclear how this or other alternatives will work legally and practically over the longer term. It is worth noting, however, that a primary focus of the legal challenges opposing licensing have been related to the duplicative charging of a fee. Without a license fee

being charged, it is reasonable there would be less incentive for a legal challenge from haulers. Independent legal advice for the City is recommended as to how to proceed on this issue.

Q3. Doesn't forcing persons who are unable to recycle due to disability to recycle cross some legal line somewhere and do we have to under Act 101 change that in our ordinance? I am in the process of waiting to hear what our solicitor's opinion on this is. However, I was hoping you might have addressed this issue with others in the past.

A3. GF does not believe the City ordinance can exclude residents from complying with the law (such as curbside recycling provisions of Act 101) due to physical disability. Disposing of garbage properly, recycling, keeping the lawn mowed, shoveling snow from the sidewalk after a storm, are all examples of typical municipal requirements that even disabled residents must arrange to have done (even if they don't or can't do it themselves).

GF, in agreement with PADEP, recommends that Act 101 recycling requirements incorporated in the City ordinance(s) should apply to all residents. Ordinance provisions, perhaps via reference to the suggested P&P document, could allow individual residents to petition to the City to request receiving special services, if determined necessary and appropriate. The special services may have an added cost that could either be absorbed by the City, or that could be added to the individual household/resident's cost. For example, a special service could be a hauler providing waste and recycling pickup on the person's front porch. GF does not recommend that special services be offered as an option to all households, even if the resident would agree to pay more for the service. The cost and management of the overall system could increase if special service options are permitted city-wide.

In the ordinance (and/or in the P&P), the City can require haulers to offer additional or special services. Special services can be offered at a reasonable price, which can be set by the hauler depending on the service requested. The City should retain control of the process to make sure the price is reasonable and to ensure that special services are only granted to households/residents in need. Notably, the City's current multi-hauler private subscription system may make it more difficult for the City to become involved in negotiating special hauler services than it would with other types of collection programs (such as single-hauler contract collection).

Q4. We are in need of a section that addresses missed pick-ups and promptly collecting after being made aware of the situation. Not sure if we should just add a whole section that addresses the haulers all together.

A4. In a typical municipal bid and contract, this is standard language that is included in the contract with the hauler. The language in municipal waste contracts usually specifies how missed pick-ups will be addressed, and how the cost incurred by the City (in this case) will be reimbursed by the contracted hauling company. These service costs will usually be absorbed by the City initially. Either the City could provide the missed pick-up service if it has staff and equipment available or arrange an on call "back-up" hauler to provide the missed pick-up service.

In GF's experience with waste collection systems, missed pick-ups can be addressed most effectively in a single-hauler contract arrangement that clearly identifies how missed pick-ups will be handled and includes missed pick-ups as a liquidated damage at a stated cost that will be charged to the contracted hauler for each violation or incident, which can be a fee in addition to the haulers responsibility of reimbursement for any cost absorbed by the City. An example liquidated damages policy is attached in **Appendix C**.

In the City's current private subscription system, it is possible to add language for addressing missed pickups by haulers (similar to language in a collection contract) to the City's ordinance to protect City residents' health, safety, and welfare. The City will have to decide upon a preferred method to address missed residential waste pickups and add the appropriate language to reflect this procedure and corresponding hauler requirements in the ordinance. However, even with the language included in the ordinance, the effective implementation in a multi-hauler system requires ongoing enforcement of the ordinance and dealing with the hauler(s) as these incidents occur. The City's solicitor or other legal counsel should finalize this legal language and placement within the City's ordinance.

Q5. We are beginning a leaf and yard waste drop off center. Should we add rules and regulations of this to the ordinance? This is a whole other area in which we need help.

A5. It is suggested that the proposed City leaf waste drop-off center be referred to only generally in the City's recycling ordinance, and that the details of the drop-off operation be omitted or contained in a P&P document. Refer to answer A1, above, concerning leaf waste.

4.3 Solid Waste Ordinance Review and Examples

There are many variables that influence a City's waste collection system and the mechanisms used to implement these programs. Solid waste ordinances and recycling ordinances are a common implementation tool used to define municipal waste and recycling programs, but these vary from one municipality to the next. GF reviewed the City's ordinance (930 Recycling) and added some comments and/or recommended changes (**Appendix D**). Because ordinances vary by municipality, GF contacted the City of Allentown, the City of Erie, and Centre County Solid Waste Authority to obtain example ordinances to be shared with the City of Lebanon. Each of these waste collection programs have favorable attributes and the associated ordinances are attached in **Appendix D**. The City should review these programs and ordinances as it develops a new solid waste and recycling ordinance since certain portions of these documents can be beneficial while making revisions to the City's own waste collection system. The City should work with a solicitor during this process.

5.0 SINGLE-HAULER COLLECTION SYSTEM RECOMMENDATIONS

PADEP made recommendations to the City regarding the implementation of a single-hauler contract collection program. Although GF did not conduct an evaluation of a single-hauler program in the City, GF has extensive experience with implementing various types of collection systems GF agrees with PADEP on a number of points related to the benefits of single-hauler waste collection systems. Single-hauler programs offer many advantages over multi-hauler collection systems. Considering: municipal waste markets; total collection system costs;

projected increases in fuel and other operational and equipment costs; municipal case studies; the City and residential need for cost reduction; the need for funding sources; and based on many other factors the City is in a position to gain considerable benefits from a single-hauler collection system.

Some single-hauler collection program advantages include:

- Lower residential waste and recyclables collection costs (as seen in the cost per household) that result from economies of scale via competitively bidding waste and recycling services for the entire City.
- Opportunity to gain revenues from sale of curbside recyclables and increase revenues from Act 101, Section 904 Performance Grants.
- A single-hauler contract can include a mechanism to secure a source of funding to offset costs for the waste and recycling programs and certain other beneficial programs identified by the City. This can be done by fairly assessing a nominal fee across all households in the City. Because of the lower cost for the contracted services, residents will still pay less for waste service than they do now, even with the fee added.
- Creates a more uniform waste and recycling program throughout the City, which would make education easier, increase participation, and increase tons of recyclables diverted from the landfill to recycling.
- Simplifies monitoring, compliance and enforcement of the City’s waste and recyclables programs. Creating a good relationship with a single hauling company combined with a liquidated damages policy included with the contract, can improve the overall implementation and consistency of the program.
- Fewer garbage and recycling trucks on the streets made possible through efficient collection house-to-house routes, will create less wear and tear on local roads, less traffic, less air pollution, and less noise.
- Ensures that all residents have waste and recyclables collection services because they will all be provided the service and billed for the service. In the current private subscription services, some residents do not secure waste collection service with a hauler.
- Gives the City contractual control of the haulers. Fosters easier negotiation of special services for residents with special needs (such as handicapped residents). Haulers can be required under contract to assist with recycling education and be required to provide documentation of recyclable tons as well as be required to meet other obligations as specified under the contract by the City.
- Creates the opportunity to “bundle” additional services in the bid at a competitive price. Services such as a weekly bulky waste pick-up can be included in the standard fee paid by residents, not as an additional cost.

Based on these advantages, GF encourages the City to further evaluate and pursue a single-hauler contract waste and recyclables collection program. There are other important factors that magnify the importance of implementing a single-hauler system to realize long-term

improvements over the City's entire waste management program. Inflating collection system costs are expected to increase if left unchecked without managed competition through municipal bidding of services. Fuel is a large cost component of any curbside waste and recycling program and the current volatility of gas prices demands a program that moderates these spikes and increases so that homeowners aren't subject to dramatic price increases for collection services.

There is an opportunity for development and implementation of a more comprehensive and manageable waste collection system to maximize benefits and minimize costs for the City and its residents. Upon request, GF can provide assistance to the City in implementing a single-hauler collection system, including the development of a competitive bid for waste and recycling services. GF also recognizes that a single-hauler system would be a significant change for the City. Therefore, a phased approach beginning with making some structural changes (refer to Section 7.2) to the existing waste collection and recycling program could precede the implementation of a single-hauler system.

6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

It is evident that City of Lebanon has worked diligently to implement its residential curbside waste and recycling program. In this multi-hauler private subscription system, the City's waste and recycling program excels in four areas:

- ✓ Recycling education and outreach in a multi-cultural setting where 20-30 percent of the population do not speak English and 70 percent of population live in rental units;
- ✓ Fostering of cooperative business relationships between the local private waste hauling companies and the City;
- ✓ Providing an ongoing supplemental drop-off recycling program to residents in addition to curbside recycling services;
- ✓ Implementation of a waste and recyclables enforcement system that is supported by the District Justice and has an enforceable method to penalize haulers that violate City regulations.

The City needs to continue its efforts related to waste and recycling, and should work to address deficiencies of the waste collection and recycling program that have been identified in this study. PADEP earmarked some of the City's collection system deficiencies during the Municipal Recycling Program Evaluation conducted in May 2006 (refer to **Appendix A**). Although evaluating the existing waste and recycling methods was not the primary focus of this study, GF has identified several outstanding issues and aspects of the City's waste collection program that could be improved and/or should be evaluated more closely:

- The City's ordinance is not consistent with Act 101 and PADEP policies.
- There are inconsistencies among waste and recyclables collection methods and schedules as provided by the multiple haulers operating in the City.

- The issue of the City licensing the solid waste haulers conducting business in the City is unresolved and the related language in the ordinance will need to be changed or removed.
- An unknown percentage of residents do not subscribe for waste collection services, which contributes to illegal disposal and accumulation of trash in the City.
- The City spends a considerable amount of time and money addressing garbage complaints and issuing and processing NOV's related to improper waste handling.
- The cost per household for waste and recyclables collection is high when compared to the cost anticipated for competitively bid single-hauler contract waste collection services.
- With the dissolution of the City's Sewer Authority, the City needs to identify a source of funding to support its waste and recycling programs.
- The City does not recover revenue through sale of recyclables that are collected curbside.
- Recycling at community activities/events is required by Act 101, but is poorly implemented and not addressed by the City's ordinance.

Addressing these outstanding issues and taking a number of steps toward implementing an improved waste collection and recycling program will improve the City's ability to maintain compliance with Act 101 waste and recycling requirements. More importantly, as the City improves its ability to provide affordable, convenient and comprehensive waste and recycling services to its residents, there is a positive impact on the health, safety and welfare of City residents.

6.2 Recommendations

GF has provided guidance and recommendations throughout the body of this Report. Some of the key recommendations include:

- **Revise the City's Solid waste and recycling ordinance:** It is recommended that the City revise the current solid waste ordinance to bring the City into compliance with Act 101 and to improve the City's ordinance to be a more effective implementation tool one that accurately reflects the City's desired waste collection and recycling program. GF has provided guidance related to revising the ordinance to address Act 101 requirements and PADEP policies and guidelines (refer to Section 4.0 of this Report). GF has also provided example municipal ordinances in **Appendix D** for the City to reference during its ordinance revision process.

Recommended revisions to the ordinance to address Act 101 compliance include:

- Modify the recycling ordinance to define "leaf waste" as it is defined by Act 101, not "leaves" as is currently contained in the ordinance. Leaf waste is defined by Act 101 as: **leaves, garden residues, shrubbery, and tree trimmings and similar material, but not grass clippings.**

- Establish the minimum curbside collection frequency for leaf waste, which is one spring curbside collection of leaf waste (as defined above) plus one fall collection of leaves only; provided the City implements a public leaf waste drop-off site (as proposed). If no leaf waste drop-off site is established, the City will need to offer curbside collection of leaf waste to residential establishments at a minimum of once-per-month.
- Ensure Act 101 recycling requirements incorporated in the City ordinance apply to all residents.
- Community activity/event recycling requirements should be added.
- Require all haulers in the City to offer special collection services to residents with special needs, with the City as a facilitator/representative of the residents to help establish needs and negotiate prices for special services.
- With confirmation from a solicitor, consider adding language to address missed pick-ups into the ordinance.
- Evaluate the use of a Policies and Procedures document as an attachment to the ordinance that contains the details of the City's recycling program.
- **Implement structural changes to the City's waste collection system:** To improve program performance, create consistency among the collection services and collection methods including material types collected and schedules (as provided by multiple waste haulers), it is recommended the City:
 - Require, at a minimum, bi-weekly collection of recyclables by haulers.
 - Require collection of the same recyclable materials by all haulers.
 - Expand the curbside collection of the paper or fiber stream to include newspaper plus other grades of mixed paper (e.g. junk-mail, magazines, bundled cardboard, etc.). Currently, only newspaper is collected curbside from residential establishments, but at least one primary recyclable processor accepts other paper grades. Diverting this material for recycling could help the City and its residents lower waste disposal costs.
 - Ensure all City residential establishments have adequate curbside residential recyclables containers. This goes beyond offering the residents a place where they may obtain containers, since many residents may not make the effort to get a container from the City or may not have or understand the related recycling information. Landlords should be required to share in this responsibility.
 - At least one 25-gallon container for commingled materials (aluminum, glass, and steel/bi-metallic cans) is recommended.
 - One 14-gallon container is recommended for paper items.

- Require landlords to post recycling information (multi-lingual) in all rental units as part of the City’s landlord licensing program.
 - Address hauler licensing with the assistance of a solicitor.
 - Identify a sound funding mechanism for waste and recycling programs.
 - Finalize plans and establish a leaf waste drop-off site in 2007 for City residents.
- **Evaluate Implementation of a Single-hauler Waste Collection Contact:** GF recommends the City further evaluate and give serious consideration to the implementation of a single-hauler contract collection system. PADEP has Act 101, Section 901 Planning Grant funds available to fund up to 80 percent of eligible costs for this type of planning study. Grant funding can be applied for by Lebanon County on behalf of the City. PADEP is generally supportive and willing to approve funding for municipalities pursuing contract collection or public collection programs as a way to improve many facets of private subscription waste collection programs.

GF presented a list of advantages of single-hauler waste collection in Section 5.0. GF recommends the City implement a single-hauler collection program as soon as support can be gathered and remaining questions or concerns are resolved. Based on GF’s extensive experience with evaluating waste collection programs, GF believes a single-hauler collection system will offer the City and its residents an economically feasible and comprehensive waste and recycling program that will be easier to implement, administer and enforce than the current multi-hauler private subscription system.

APPENDIX A

PADEP Municipal Recycling Program Evaluation and Letter

(Not included in on-line version of report)

APPENDIX B

PADEP Leaf Waste Guidelines (2007)

PENNSYLVANIA'S ACT 101 LEAF WASTE COLLECTION REQUIREMENTS

Act 101, Section 1501(c)(1)(ii) and (iii), requires persons in mandated municipalities to separate leaf waste from other municipal waste generated at residential, commercial, municipal and institutional establishments. "Leaf waste" is defined in the Act and its regulations as "Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings." Source separated leaf waste, as with other recyclable material, is to be collected at least once per month as set forth in Act 101 Section 1501(c)(2) and (3) and processed at Pa. DEP-approved composting facilities.

Act 101 mandated municipalities with programs that collect leaves only in the fall are not in compliance with the Act. Mandated municipalities desiring to establish leaf waste collection programs in compliance with Act 101 must, as a minimum:

1. Require by ordinance that leaf waste consisting of leaves, garden residues, shrubbery and tree trimmings, and other similar material are targeted for collection from residences and commercial, municipal and institutional establishments; and
2. Establish a scheduled day, at least once per month, when leaf waste is collected from residences; or
3. Establish a scheduled day, not less than twice per year and preferably in the spring and fall, when leaf waste is collected from residences, and facilitate a drop-off location or other collection alternative approved by Pa. DEP that allows persons in the municipality to deposit leaf waste for the purposes of composting or mulching at least once per month. The leaf waste drop-off location may be located in a neighboring municipality or at a private sector establishment provided that an agreement is in place to utilize that location and the municipality keeps residents and commercial, municipal and institutional establishments informed of the option at least once every six months.
4. Ensure that commercial, institutional and municipal establishments generating leaf waste have collection service.
5. Municipalities are encouraged to manage source separated Christmas trees as leaf waste for processing at Pa. DEP-approved composting facilities.

APPENDIX C

Example 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.

APPENDIX D

Example Ordinances

(not included in online version of report)

Ordinance Comments

FILE OF THE COUNCIL OF THE CITY OF LEBANON, PA.

BILL NO. _____ SESSIONS 2006-2007

INTRODUCED BY _____

AN ORDINANCE

ESTABLISHING REGULATIONS FOR RECYCLING IN THE CITY OF LEBANON, AND REPEALING ARTICLE 930 OF THE CODIFIED ORDINANCES.

Be It Ordained by the Council of the City of Lebanon, Pennsylvania, and it is hereby ordained by the authority of the same, That:

SECTION 1. Article 930, "Recycling", of the Codified Ordinances of the City of Lebanon, Pa., is hereby repealed, rescinded, and deleted in its entirety and shall be replaced by the following new article:

"930 Recycling

930 .01 TITLE ; PURPOSE; COMMUNITY OBJECTIVES .

(a) Title . This article shall be known and may be cited as "The Recycling Ordinance of the City of Lebanon ."

(b) Purpose. The purpose of this article is to divert materials from our County landfill to further market those materials for recycling or reuse, thereby conserving energy and our natural resources .

(c) Statement of Community Objectives . As described in greater detail in the Lebanon County Solid Waste Plan, which Plan this article is intended to aid in implementing, community objectives include the following:

(1) Preserve valuable County landfill capacity and prolong its life by reducing and diverting the present solid waste stream.

(2) Separate valuable materials from the residential, commercial, municipal and institutional waste stream.

(3) Establish and implement a mandatory residential curbside program for the collection of aluminum cans, and clear and colored glass .

(4) Establish a collection and/or disposal program for newspaper, mixed office paper, motor oil, tires, white goods and leaf waste.

(5) Research marketing opportunities for selling or reusing materials collected.

(6) Explore alternate disposal methods (i .e. composting).

(7) Expand the recycling programs to include collection of bimetallic containers, ferrous containers, plastic containers and corrugated paper either at curbside or at centrally located public drop-off centers .

(8) Promote recycling through a vigorous and effective public education program .

(9) Strategically incorporate provisions in existing codes (i.e., zoning, building, fire prevention and health) to accommodate recycling opportunities and practices .

(10) Require an annual recycling report be submitted to the City by all commercial, municipal and institutional establishments documenting the amount of municipal waste generated per year, as well as the type and weight of materials that were recycled in the previous calendar year. These documents shall be used by the City to apply for recycling program performance grants .

930.02 DEFINITIONS .

(a) As used in this article, the following definitions shall apply:

- (1) "Aluminum cans" mean empty all-aluminum nonaerosol beverage and food containers.
- (2) "Bimetallic containers" mean empty food or beverage containers consisting of steel and aluminum.
- (3) "Commercial establishment" means those properties used primarily for commercial or industrial purposes and those multiple dwelling residential buildings containing four (4) or more dwelling units.
- (4) "Community activities" mean events that are sponsored by public or private agencies or individuals that include but are not limited to fairs, bazaars, socials, picnics, and organized sporting events attended by 200 or more individuals per day .
- (5) "Corrugated paper" means structural paper material with an inner core shaped in rigid parallel furrows and ridges, normally used for packing, mailing, shipping, but excluding plastic, foam or wax coated or soiled cardboard.
- (6) **"Curbside Recycling" means a method of collection of residentially generated recyclables by which owners or occupants of residential properties place materials curbside at a time designated by their authorized waste hauler for collection and removal.**

GF COMMENT: If the City ordinance designates the materials of the recyclables program to be collected by the waste hauler(s), which is recommended, consideration should be given to changing the "Curbside Recycling" definition to reflect that materials will be designated by the City of Lebanon or City ordinance.

- (7) "Drop-off center" means an area where an individual may deposit recyclable materials and where recyclables may be sorted. These areas are typically found at multi-family apartments and condominium complexes and at commercial, municipal and institutional establishments.
- (8) "Ferrous containers" mean empty steel or tin-coated steel food or beverage containers.
- (9) "Glass containers" mean jars and bottles made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass, porcelain and ceramic products, light bulbs, laminated, wired or mirrored glass.
- (10) "High-grade office paper" means all white paper, bond paper and computer paper used in commercial, municipal and institutional establishments and in residences.
- (11) "Institutional establishment" means those facilities that house or serve groups of people such as hospitals, schools, day care centers and nursing homes.
- (12) "Lead acid batteries" include but are not limited to automotive, truck and industrial batteries that contain lead.
- (13) "Leaf waste" means leaves from trees, bushes and other plants, garden residue, chipped shrubbery and tree trimmings but not including grass clippings.
- (14) "Licensed collector" means a person authorized by license or contract to collect source-separated recyclable materials from residential, multi-family rental housing properties and condominiums, commercial, municipal and institutional establishments in the City of Lebanon for the purpose of transporting or delivering of designated recyclables to a recycling facility, processing facility or an end-use market.
- (15) "Magazines and periodicals" mean printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded are all other paper products of any nature whatsoever.
- (16) "Mixed office paper" means low quality paper stock consisting of unsorted mixed papers generated by office buildings, printing plants and most commercial sources. Any paper normally received by mail excluding newspaper, newspaper circulars, magazines and carbon paper.
- (17) "Multi-family rental housing properties" mean any properties having four (4) or more dwelling units per structure, including condominium ownership.
- (18) "Municipal establishments" mean public facilities operated by the municipality and other governmental and quasi-governmental authorities.

- (19) "Municipality" means City of Lebanon, located within the County of Lebanon, Commonwealth of Pennsylvania.
- (20) "Newspapers" mean 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. Expressly excluded are glossy advertising inserts often included with newspapers .
- (21) "Person(s)" mean owner(s), lessee(s) and occupant(s) or resident(s), of residences, commercial or institutional establishments. In any provisions of this article prescribing a fine, penalty or imprisonment, the term "person" includes the officers and directors of a corporation or other legal entity having officers and directors .
- (22) "Plastic containers" mean 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 recycled .
- (23) "Public nuisance" means any unlawful conduct set forth in this article .
- (24) "Public recycling drop-off" means any facility designed and operated solely for the receiving and storing of source-separated glass, aluminum, steel and bimetallic cans, office paper, newsprint, corrugated paper and plastics .
- (25) "Recyclable materials" mean source-separated recyclable materials, including material listed in Section 1501 of Act 101, and materials identified by the Municipality to be recycled .
- (26) "Recycling" means any process by which materials, which would be otherwise solid waste, are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products .
- (27) "Resident" means any person living or sleeping in a building ; or having possession of a space within a building .
- (28) "Residential dwellings" mean any occupied single or multi-family dwelling having up to four (4) dwellings per structure .
- (29) "Scavenging" means the uncontrolled removal of material from the curbside, public recycling drop-off, and drop-off center .
- (30) "Source-separated recyclable materials" means those materials separated at the point of origin for the purpose of being recycled.
- (31) "Waste" means 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 Pennsylvania Department of Environmental Resources for beneficial use .

GF COMMENT: Suggest adding the term "Mixed Paper" to the list of definitions, which is a common industry term that includes newspaper, magazines, junk mail, telephone books and corrugated paper. It is recommended the City evaluate and seriously consider adding Mixed Paper to the collection program.

GF COMMENT: Suggest adding the term "Designated Recyclables" to the list of definitions to be defined as recyclable materials which have been approved by the City of Lebanon for collection as part of the curbside residential recycling program.

GF COMMENT: The City should finalize these definitions for accuracy and the ordinance should integrate these terms throughout where appropriate. GF did not do this as part of this review.

930 .03 ESTABLISHMENT OF CURBSIDE RESIDENTIAL RECYCLING PROGRAM.

(a) There is hereby established, within the City of Lebanon, comprising Wards 1 through 10 and Ward 36, a program ("**curbside** residential recycling program") for separate collection of clear and colored glass, steel, bimetallic and aluminum cans **and other designated recyclables** from all ~~nonphysically disabled~~ residents of the Municipality and from all other persons, including commercial, municipal or institutional establishments within such Municipality. **Participation in the residential recycling program is mandatory.** However, such residential recycling program shall not apply to any multi-family dwelling or commercial, municipal or institutional establishment where such dwelling or

establishment has adopted a recycling program in accordance with Act 101 of 1988, and if they submit written documentation to the Municipality showing the total number of tons that they have recycled each year. **If a hauler misses a pickup, the recyclable material shall be collected from the location within 24 hours of notification from the resident, providing the resident has abided with the terms of the contract with the hauler.**

(b) All persons other than residents served by the residential recycling program established pursuant to this section and Section 930 .06 shall source separate mixed office paper, corrugated paper, aluminum, steel and bimetallic cans, and clear and colored glass and leaf waste, **and #1 and #2 plastics and newspaper and other designated recyclables.** Such recyclables shall be stored in a safe and sanitary manner in accordance with local zoning, fire prevention and health codes, and collected **minimally on a bi-weekly basis, or** as frequently as necessary to prevent any illegal accumulations. **If a hauler misses a pickup, the recyclable material shall be collected from the location within 24 hours of notification from the resident, providing the resident has abided with the terms of the contract with the hauler.**

(c) Designated recyclables for this residential recycling program established pursuant to this section shall consist of the following materials:

- (1) Clear glass.
- (2) Colored glass.
- (3) Aluminum cans.
- (4) Seal and bimetallic cans.
- (5) #1 and #2 plastics.**
- (6) Newspaper.**

GF COMMENT: I note concerns about the City placing limitations on the list of recyclables that will or could be collected as part of a future and flexible waste management program for the City. Why list only newspaper from an extensive list of paper/fiber materials? The PADEP Statewide Composition Study (April 2003) indicates cardboard, mixed paper (excluding magazines), magazines and office paper constitute nearly 22 percent of the MSW disposed in PA landfills? Even if markets for mixed paper are unavailable now, allowing the program to take advantage of future markets will improve the programs flexibility and opportunity for market revenues. Additionally, there are certain fixed costs for recycling vehicles traveling City collection routes. So, collecting a single paper stream (in this case newspaper), from households and leaving other material behind doesn't maximize collection system efficiencies. Selecting certain materials and leaving other recyclables for waste disposal sends a negative and confusing message to residents who do not understand why the City chooses to recycle certain grades of paper but not others. With the City's residential density, mixed paper delivered to a local market could yield revenue while contributing substantially to the "avoided cost of disposal" and City's total recycling rate.

GF COMMENT: Suggest language related to City's ability to change the list of designated materials provided 60 day notification is given to haulers and residents.

930.04 SOURCE SEPARATION AND PREPARATION FOR RESIDENTIAL COLLECTION.

(a) All recyclables placed for pickup by residents for collection pursuant to the **mandatory curbside** residential program established pursuant to Section 930 .03 shall be prepared for collection as follows :

- (1) Materials shall be placed in the appropriate recycling containers designated for clear glass, colored glass and aluminum . Plastic garbage bags shall not be utilized as containers for glass or cans.
- (2) Clear glass jars and bottles shall be rinsed free of contaminants and thoroughly drained ; the caps or lids shall be removed . Caps, lids and bottle tops shall be placed in regular trash . Colored glass shall be prepared in a similar manner.

- (3) Aluminum, steel and bimetallic cans shall be rinsed and thoroughly drained .
- ~~(4) Specific recycling collection regulations may be established and revised from time to time by resolution of Council .~~
- ~~(5) Subsequent changes in the program regulations may be made through approval of Council . Public notice and notification to all affected parties shall not necessitate a change in the article itself .~~

(b) Specific recycling collection regulations may be established and revised from time to time by resolution of Council.??

GF COMMENT: The City solicitor has indicated resolution is not the format with which to make ongoing revisions. GF defers the City to the solicitor's opinion on revising the ordinance language or deleting certain sections related to revisions by resolution.

(c) Subsequent changes in the program regulations may be made through approval of Council . Public notice and notification to all affected parties shall not necessitate a change in the article itself ??????????????????

930.05 ESTABLISHMENT OF DROP-OFF PROGRAM FOR MULTI-FAMILY DWELLINGS.

(a) There is hereby established a "private drop-off program" for the source separation and delivery to a drop-off center of mixed office paper, clear and colored glass and aluminum, steel and bimetallic cans from all residents of multi-family dwellings within the Municipality.

(b) The owner or manager of every multi-family dwelling within the Municipality shall provide and maintain, in a neat and sanitary condition, a drop-off center to receive all designated recyclables generated by residents of the multi-family dwelling . In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the drop-off center.

(c) All newly constructed multi-family dwellings and existing multi-family dwellings that are expanded to add units or those that are substantially rehabilitated shall be provided with a drop-off center in an easily accessible location.

930.06 SOURCE SEPARATION AND RECYCLABLES PLACEMENT AT DROP-OFF CENTERS.

(a) Designated recyclables required to be placed in drop-off centers pursuant to Section 930 .05 are as follows:

- (1) Glass jars and bottles shall have caps and lids removed . Caps, lids and bottle tops shall be placed in regular trash.
- (2) Glass jars and bottles, aluminum, steel and bimetallic cans shall be rinsed free of contaminants.
- (3) Glass jars and bottles, aluminum, steel and bimetallic cans shall be thoroughly drained.
- (4) Clear glass shall be separated from colored glass and each shall be placed in a suitable receptacle designated for that color at the drop-off center .
- (5) Aluminum cans shall be placed in the receptacle designated for aluminum at the drop-off center.
- (6) Steel and bimetallic cans shall be placed in the receptacle designated for steel and bimetallic at the drop-off center .
- (7) No trash or nonrecyclables are permitted in recycling containers .

930.07 SOURCE SEPARATION IN MULTI-FAMILY DWELLINGS: DESIGNATION OF COORDINATOR AND COLLECTION SYSTEM ; RECYCLING COLLECTED MATERIALS, REPORTING AND EDUCATIONAL PROGRAM.

(a) Designation of Coordinator. Owners, landlords or agents of owners or landlords of multi-family rental housing properties and condominiums shall serve as the recycling coordinator or shall

appoint a recycling coordinator to oversee the development and implementation of a recycling program that includes: identification of recyclables to be collected ; a materials handling and storage plan; information on markets or haulers ; requirements for equipment and supplies ; a sustained educational program for residents ; methods for evaluating performance and costs ; and where feasible, procedures for procuring goods, supplies, equipment and materials made with recycled content .

(b) Collection System. The design of a collection system should reflect the site-specific conditions at a complex. Collection system design is influenced by generation rate of recyclables, equipment/container requirements, labor needs, a building's physical layout, and its available storage capacity .

GF COMMENT: *Why discuss design? It seems this discussion is background information that is not needed and could be deleted with no impact to the ordinance.*

Owners, landlords or their agents shall place collection receptacles of sufficient size for recyclable materials in easily accessible locations, such as storage areas or areas where municipal waste is presently collected . Recyclable materials shall be stored in accordance with local fire code regulations and other pertinent local ordinances until collection. Recyclable materials shall be collected **minimally on a bi-weekly basis, or** as frequently as necessary to maintain a clean and sanitary condition throughout the interior and exterior of the dwelling. **If a hauler misses a pickup, the recyclable material shall be collected from the location within 24 hours of notification from the owner, landlord or their agent, providing the owner, landlord or their agent has abided with the terms of the contract with the hauler.**

For condominiums, the association, manager or agent is responsible for placing collection receptacles of sufficient size for recyclable materials in easily accessible locations, such as storage areas or areas where municipal waste is presently collected . Recyclable materials shall be stored in accordance with local fire code regulations and other pertinent local ordinances until collection. Recyclable materials shall be collected as frequently as necessary to maintain a clean and sanitary condition throughout the interior and exterior of the dwelling. Owners, landlords or agents of owners or landlords of multi-family rental housing properties and condominiums who comply with these requirements are not liable for the noncompliance of occupants of their buildings .

(c) Provisions for Recycling of Collected Materials. Owners, landlords or agents of owners or landlords of multi-family rental housing properties and condominiums shall provide for collection, transportation, processing and marketing of recyclable material by :

- (1) Undertaking the collection, transportation, processing and marketing of materials themselves ; or
- (2) Entering into contracts with a licensed hauler for the collection, transportation, processing and marketing of materials .

(d) Reporting . Pursuant to Act 101, Section 304(f) owners, landlords or agents of owners and landlords of multi-family rental housing properties and condominiums shall submit a recycling report to the Municipality through the Department of Public Safety . The report shall describe the type and weight of materials that were recycled in the preceding calendar year.

(e) Educational Program. Owners, landlords or agents of owners or landlords of multi-family rental housing properties and condominiums shall inform all employees and residents of the recycling program . The educational program shall include, at a minimum, written instructions to the residents stating the materials that are to be recycled, how the materials are to be prepared, and how to use the collection system . In addition, employees should be informed of the recycling program and the requirements of the program through one meeting at the beginning of their employ and then at least one meeting during the calendar year. Receptacles should be clearly marked with the recycling symbol and the type of recyclable material that is to be placed in the receptacle. Signs should be prominently displayed stating the requirements of the recycling program .

GF COMMENT: *Suggest the ordinance indicate that the waste hauler is required to distribute recycling information to households twice per year, once every six months, in accordance with Act 101 and also any time the waste hauler makes changes to their collection methods/requirements that impact the manner in which households participate in the residential curbside recycling program.*

930 .08 MANDATORY COMMERCIAL, MUNICIPAL AND INSTITUTIONAL SOURCE SEPARATION PROGRAM.

(a) Commercial, municipal and institutional establishments shall separate and store, until collection, mixed office paper, corrugated cardboard, aluminum cans, steel and bi-metallic cans, clear and colored glass, leaf waste, and other source separated recyclable materials which they may elect to recycle . These establishments shall arrange for the transfer of the materials by a collector licensed for the purpose of collecting source separated recyclable materials by the Municipality to an identified market for recovery or reuse of source separated recyclable materials .

(b) Designated recyclables for the mandatory commercial, municipal, and institutional source separation program shall consist of the following materials:

- (1) Mixed office paper.
- (2) Corrugated cardboard.
- (3) Aluminum cans.
- (4) Steel and bimetallic cans.
- (5) Clear and colored glass.
- (6) Leaf waste.
- (7) #1 and #2 plastics.**
- (8) Newspaper.**

Other designated recyclables

(c) Designation of Coordinator. Owners, operators or administrators of commercial, municipal and institutional establishments shall appoint a recycling coordinator to oversee the development and implementation of a recycling program that includes: a plan for minimizing waste; information on markets and haulers; a system for in-house collection; requirements for equipment and supplies; a sustained in-house educational program; methods for evaluating performance and costs; and where feasible, procedures for procuring goods, supplies, equipment and materials and with recycled content.

(d) Separation of Recyclable Materials. Recyclable materials shall be separated from municipal waste generated at commercial, municipal and institutional establishments as well as industrial establishments with lunchrooms or offices . Materials to be separated must include at a minimum: mixed office paper, corrugated paper, aluminum, clear glass, colored glass and leaf waste . Leaf waste shall be separated from all other wastes and composted or placed for collection. Exemption from separation requirements are discussed in subsection (g) hereof. This requirement does not apply to materials that are used to contain or come into contact with infectious waste.

(e) Collection System. The design of a collection system shall reflect the site-specific conditions at a facility. Collection system design shall be based on the generation rate of recyclables, equipment/container requirements, labor needs, a building's physical layout, and its available storage capacity. Additionally, the type of activities that are conducted in various areas of a building as well as employee/occupant needs may influence the logistics of collection at the following :

- (1) Commercial establishments . Collection receptacles for recyclable materials shall be placed in all buildings of a commercial establishment . At a minimum, collection receptacles shall be placed in each office and in areas where food is served or consumed such as cafeterias, lunchrooms, fast food areas and vending machine rooms .
- (2) Municipal establishments . Collection receptacles for recyclable materials shall be placed in each office, on all floors or wings, and in areas where food is served or consumed such as cafeterias, lunchrooms, fast food areas and vending machine rooms .
- (3) Institutional establishments . Collection receptacles for recyclable materials shall be placed in all buildings, residences, dormitories and other areas of institutional

establishments . At a minimum, collection receptacles shall be placed in each office and in areas where food is served or consumed such as cafeterias, lunchrooms, fast food areas and vending machine rooms . In addition, where feasible, collection receptacles shall be placed on each floor and/or each wing of buildings, residences and dormitories. Recyclable materials shall be stored in accordance with fire code regulations and other pertinent local ordinances until collection . Recyclable materials shall be collected as frequently as necessary to maintain a clean and sanitary condition throughout the interior and exterior of the establishment.

(f) Provisions for Recycling of Collected Materials. Owners, operators or administrators of establishments shall provide for collection, transportation, processing and marketing of materials by entering into contracts with a licensed hauler for collection, transportation, processing and marketing of materials.

(g) Exemption from Municipal Recycling Ordinance or Regulation. Pursuant to Act 101, Section 1501 (c) (iii), persons occupying commercial, municipal or institutional establishments may obtain an exemption from the Municipality's recycling ordinance by :

- (1) Providing for the recycling of mixed office paper, corrugated paper, aluminum cans, steel and bimetallic cans, clear glass, colored glass and leaf waste .
- (2) Submitting, at a minimum, an annual recycling report to Council, through the Department of Public Safety . The report shall document the amount of municipal waste generated per year as well as the type and weight of materials that were recycled in the previous calendar year .
- (3) Valid documentation shall include information from an end-use market, recycler or waste hauler which describes the type and weight of each recyclable material that was collected and marketed. Documentation may be in the form of one of the following :
 - A. Copies of weight receipts or statements which consolidate such information.
 - B. A report from the provider of recycling collection services which identifies the amount of each material collected and marketed. The type and weight of recyclables generated by an individual establishment may be approximated based on a representative sample of its source-separated materials. Where recyclables from several establishments are collected in the same vehicle, an individual establishment's contribution to the load may be apportioned . Only the weight of materials marketed for recycling purposes can be credited to an establishment.
 - C. A report from the provider of waste collection services that identifies the type and weight of each recyclable material collected and marketed in cases where recyclables are commingled with the establishment's waste . The type and weight of recyclables generated by an individual establishment may be approximated based on a representative sample of its waste . Where materials from several establishments are collected in the same vehicle, an individual establishment's contribution to the load may be apportioned. Only the weight of materials marketed for recycling purposes can be credited to an establishment.

(h) Reporting . Pursuant to Act 101, Section 304 (f), commercial, municipal and institutional establishments shall submit a recycling report to Council through the Department of Public Safety . The report shall describe the type and weight of materials that were recycled by each establishment in the preceding calendar year.

(i) Educational Program. Owners, operators or administrators of commercial, municipal and institutional establishments shall inform all employees, users (patrons), and residents of the recycling program . The educational program shall describe the recycling program's features and requirements . It shall include, at a minimum, an annual recycling program meeting and an orientation to the recycling program upon the arrival of a new employee or resident . Receptacles shall be clearly marked with the recycling symbol and the type of recyclable material that is to be placed in the receptacle . Signs shall be prominently displayed stating the requirements of the recycling program.

(j) Waste Minimization Plan . Establishments which generate more than 2,200 pounds of municipal waste per month shall implement a waste minimization opportunity assessment .

- (1) The waste minimization opportunity assessment shall include:
 - A. Waste characterization, including source, generation rate, management techniques and management costs. The assessment should expressly consider high-grade office paper, aluminum, corrugated paper, leaf waste, and any other materials generated in significant quantities.
 - B. A description of all possible waste minimization options, including use and waste reclamation.
 - C. An evaluation of the economic and technical feasibility of each option and ranking of each option.
 - D. An estimate of the pay back period for each feasible option.
 - E. A statement of which options will be implemented, including an explanation and a timetable.
 - F. Identification of the individual(s) who will be responsible for implementing the plan.
- (2) The waste minimization plan should be periodically updated.
- (3) Implementation of the plan should include:
 - A. Recycling or composting of materials, to the greatest extent feasible, either privately or through a municipal recycling program.
 - B. Use, to the greatest extent feasible, of products and materials which are recyclable or made of post consumer materials.
 - C. Substitution, to the greatest extent feasible, of durable and reusable products and materials for products that are not durable or reusable.
 - D. Appropriate education materials and signs should be made available to employees or the public to encourage participation in recycling and waste reduction.

930.09 MANDATORY SOURCE SEPARATION OF LEAVES-LEAF WASTE.

(a) No person shall dispose of ~~leaves~~ **leaf waste**, arrange for the disposal of ~~leaves~~ **leaf waste**, or cause ~~leaves~~ **leaf waste** to be disposed of at any solid waste facility.

GF COMMENT: *Include the specific materials as defined by Act 101 for leaf waste. Refer to the Recycling Technical Assistance Report and the PADEP Leaf Waste Guidance (2007) included in the appendix.*

(b) All persons who gather ~~leaves~~ **leaf waste** and who are served by a municipal program for separate collection of ~~leaves~~ **leaf waste** shall source separate all ~~leaves~~ **leaf waste** and place them for collection at the times and in the manner presently or hereafter prescribed by the City of Lebanon. The ~~leaf~~ **leaf waste** collection schedule is set forth each year at the onset of fall and is advertised by the Municipality at least two (2) weeks prior to the scheduled collection.

(c) All persons who gather ~~leaves~~ **leaf waste** and who are not served by the Municipal program for separate collection of ~~leaves~~ **leaf waste** shall arrange for the separate disposal or processing of ~~leaves~~ **leaf waste** at an agricultural, horticultural or other commercial operation which processes or utilizes leaves for compost, mulch or other beneficial uses.

(d) Nothing herein shall require any person to gather ~~leaves~~ **leaf waste** or prevent any person from utilizing ~~leaves~~ **leaf waste** for compost, mulch or other agriculture, horticultural, gardening or landscaping purposes.

930.10 LICENSING.

(a) **All haulers shall be licensed by the Pennsylvania Department of Environmental Protection to collect and market source separated recyclable materials from residential, multi-family rental housing properties, condominiums, commercial, municipal and institutional establishments located within the Municipality.**

~~(a) The Municipality shall authorize by issuance of a license through the Greater Lebanon Refuse Authority such hauler(s) to collect and market source separated recyclable materials from residential, multi-family rental housing properties, condominiums, commercial, municipal and institutional establishments located within the Municipality. All applications for licensing shall be approved in accordance with the following:~~

(b) No person, other than such persons as are duly authorized by the Municipality, shall collect, transport and/or market source separated recyclable materials within or from the Municipality. Authorization shall be given only by the Department of Public Works of the City of Lebanon, or its designee, in accordance with regulations established by such Department.

~~(c) Licenses may be issued to only those persons who can provide satisfactory evidence that they are capable of providing the necessary services and documents confirming market contracts for those designated recyclables collected, and who can comply with the provisions and intent of this article, and the rules and regulations established by the Municipality.~~

~~(d) At the time of application, the applicant shall supply vehicle information listing the type of closed or covered vehicle which will be used to collect source separated recyclable materials and shall provide evidence of sufficient liability insurance on the vehicle(s).~~

~~(e) License shall be issued on an annual basis in conjunction with the annual inspection of garbage and refuse vehicles, but may be revoked at any time by the Municipality for just cause.~~

~~(f) An annual inspection of collection vehicles shall be held in conjunction with the annual inspection and licensing of garbage and refuse collection vehicles pursuant to Section 929.06(e) of the Codified Ordinances.~~

(c) The licensed contractor shall provide to the municipality, through the Greater Lebanon Refuse Authority, on a quarterly basis, a customer list by location address as well as a report of weight receipts describing total tonnage collected and the types of recyclables marketed including their destination.

(d) A licensed collector shall not load any source separated recyclables into any vehicle containing municipal solid waste.

(e) A licensed collector shall not dispose of recyclables except to a recycling facility, processing facility, or to an end-use market for resale or reuse and shall produce contracts as confirmation of compliance.

(f) Failure of a licensed collector to comply with this article shall **may** result in revocation of their license.

(g) No person shall permit any unlicensed collector to take designated recyclable materials from their premises.

(h) Collection of recyclable materials to benefit a non-profit or charitable cause may be permitted upon authorization from the Department of Public Works, or its designee. Any person or group wishing to conduct a collection of recyclable materials to benefit a non-profit or charitable cause shall notify the Department of Public Works no less than fifteen (15) days prior to the proposed collection.

930.11 UNLAWFUL ACTIVITIES; SCAVENGING NUISANCE.

(a) It shall be unlawful for:

(1) Any person other than the Municipality or another person authorized by the

- Municipality to collect any designated recyclable which has been placed at the curbside for collection or within a drop-off center pursuant to this article;
- (2) Any person to violate or to cause or to assist in the violation of any provision of this article or any provision of the County Plan, when adopted, concerning recycling;
 - (3) Any person to place or to cause to be placed any material other than a designated recyclable in or near a drop-off center;
 - (4) Any person to hinder, to obstruct, to prevent or to interfere with this Municipality, or its personnel, in the performance of any duty under this article or in the enforcement of this article; and
 - (5) Any person within the Municipality to dispose of designated recyclables with ordinary solid waste.
 - (6) Any person other than the licensed collector to collect any designated recyclable material which has been placed at the pick-up point for collection.
 - (7) Any person transporting designated recyclable materials within the City of Lebanon to allow any spillage from vehicles or containers used in the transport of such designated recyclable materials. Such vehicles or containers shall not be overfilled and shall be cleansed at sufficiently frequent intervals to prevent obnoxious odors or unhealthful conditions. Such vehicles shall be so constructed, loaded, and driven as to prevent any portion of the load from falling out upon any City street.
 - (8) Any person within the Municipality to place or cause to be placed any material other than designated recyclables in a container provided by the City of Lebanon and/or Greater Lebanon Refuse Authority and designated for recyclable materials.

930.12 NONCOLLECTION OF SOLID WASTE CONTAMINATED BY RECYCLABLES.

This Municipality, its agent, or any other person licensed by the City of Lebanon to collect solid waste generated within this Municipality may refuse to collect solid waste from any person who has clearly failed to source separate recyclables designated under an applicable section of this article.

GF COMMENT: *Re-evaluate licensing and change or delete ordinance language accordingly. Defer to the City solicitor.*

930.13 CONTRACTS.

Any contract for the collection, transportation, processing or purchase of solid waste or recyclables shall conform to the requirements of this article.

930.14 PENALTIES; ENFORCEMENT.

(a) Any person, firm or corporation who shall violate any of the provisions of this article or who shall fail to comply with any of the requirements thereof, shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) and/or be imprisoned not more than ninety (90) days. Each day during or on which a violation occurs or continues shall be deemed a separate offense. The imposition of any fine for any violation of this article shall not excuse such violation(s) or permit same to continue.

(b) The Recycling Coordinator is the designated enforcement officer responsible for the enforcement of this article.

930.15 INJUNCTION; CONCURRENT REMEDIES.

(a) In addition to any other remedy provided in this article, this Municipality may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this article for an injunction to restrain a violation of this article. In addition to an injunction, the court may impose penalties as authorized by Section 930.14.

(b) The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent this Municipality from exercising any other remedy provided by this article or otherwise provided at law or equity.

930.16 SEVERABILITY.

The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this article which can be given effect without the invalid provision or application of this article.

930.17 REPEALER.

Any ordinance or part of ordinance conflicting with the provisions of this article, be and the same is hereby repealed so far as the same affects this article.