

ORDINANCE 62

PROVIDING FOR THE COLLECTION, REMOVAL AND DISPOSAL OF REFUSE WITHIN THE BOROUGH OF INDIAN LAKE, REGULATING THE STORAGE, COLLECTION AND DISPOSAL OF REFUSE, ESTABLISHING RULES AND REGULATIONS FOR THE AWARD OF A CONTRACT FOR THE EXCLUSIVE RIGHT TO COLLECT REFUSE IN THE BOROUGH OF INDIAN LAKE, PROVIDING FOR THE CHARGE OF FEES FOR COLLECTION, AND PROVIDING FOR PENALTIES FOR VIOLATION OF SAID ORDINANCE.

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BE IT ORDAINED by the Council of the Borough of Indian Lake, Somerset County, Pennsylvania, and it is hereby ordained by the authority of the same as follows:

SECTION I. SHORT TITLE

This Ordinance shall be known as, and may be cited as "Indian Lake Borough Refuse Collection Ordinance".

SECTION II. DEFINITIONS

The following words and terms as used in this Ordinance shall have the meanings herein described thereto, unless the context clearly indicates a different meaning:

A. "Ashes" shall mean the residue resulting from the burning of wood, coal, coke or other combustible materials.

B. "Collector" shall mean the person to whom the Borough has awarded the contract to collect, remove and

dispose of refuse under the provisions of this Ordinance and the persons employed by him for said purpose.

C. "Garbage" shall mean all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

D. "Person" shall include any natural person, association, partnership, firm, corporation or other organization.

E. "Rubbish" means all solid waste except garbage and other decomposable matter, and shall include, but is not limited to, bedding, cardboard, cans, crockery, glass, paper, wood and yard gleanings, and like non-putrescible solid waste.

F. "Refuse" shall mean all solid wastes, except body wastes and shall include garbage, ashes and rubbish.

G. "Residential Unit" shall mean the residence of each separate residential customer including each apartment in an apartment building.

H. In this Ordinance the singular shall include the plural and the masculine shall include the feminine and neuter.

SECTION III. ADMINISTRATION AND SUPERVISION

The supervision of the collection, removal and disposal of refuse in the Borough shall belong to the Council of said Borough. The said Council is hereby vested with full authority to make all necessary rules and regulations not contrary to law and in conformity with this Ordinance that it shall from time to time deem advisable to accomplish the end and purpose of this Ordinance.

SECTION IV. PROCEDURE FOR EXCLUSIVE CONTRACT

A. Beginning January 1, 1988, the Borough Council shall prepare specifications for bidding for a contract covering the collection, removal and disposal of garbage, ashes and rubbish within the Borough and shall advertise for bids, giving such notice as it deems adequate for the purpose, and reserving the right to reject any and all bids, and shall award the contract for the exclusive right to collect garbage, ashes and rubbish in the Borough of Indian Lake from time to time and for such period of time as shall be determined by Borough Council, to a responsible bidder.

B. Such exclusive contract shall regulate, in a manner not inconsistent with the terms of this Ordinance and applicable law, as Council shall direct, the prices to be charged by

such contractor to customers, and the manner, method and time of collecting and conveying refuse.

C. Before the award of the exclusive contract shall be finally made to the collector and before the collector shall undertake any of his duties under such contract, such collector shall provide certificates of general public liability insurance for such amount as Council shall approve, and of Workmen's Compensation coverage for the collector's employees, and the collector shall comply with all other stipulations set forth in the bidding specifications and in this Ordinance.

SECTION V. EXCLUSIVE COLLECTION

No person except the contractor designated as herein provided shall collect garbage, ashes and rubbish from any other person for conveyance and disposal; provided, however, that this section shall not apply to any person who shall haul his own garbage, ashes and rubbish; provided also, however, that such person shall have first provided himself with a proper conveyance for the hauling of refuse and provided further that such person shall dispose of said refuse and otherwise comply in every respect with all applicable requirements of this Ordinance and the Pennsylvania Solid Waste Management Act and other applicable laws, ordinances and regulations issued pursuant thereto.

The owner or occupant of each residential unit within the Borough shall be required to pay the fee for collection service established under the provisions of this Ordinance as set forth in the contract with the collector unless such owner or occupant furnishes proof satisfactory to Council that such owner or occupant is disposing of his own refuse by proper means of conveyance and at a place authorized by the provisions of this Ordinance and applicable law, and otherwise in complete compliance with all requirements of this Ordinance, the Pennsylvania Solid Waste Management Act and other applicable laws, ordinances and regulations.

SECTION VI. COLLECTION; RATES AND COLLECTION TERMS AND CONDITIONS

A. The collector shall be required to collect refuse from customers within the Borough at least once per week. Collection shall be made at the curb, unless otherwise agreed by collector and the person or persons receiving service, and shall include garbage, rubbish and ashes.

B. For commercial establishments, boarding houses, foster homes, hotels, restaurants, stores, markets, wholesale produce businesses, apartment buildings with more than two residential units and similar business places, and from summer cottages and other facilities used only seasonally, the fee for service and frequency of collection shall be

negotiated between the collector and the person or persons receiving the service and it shall be the obligation of each of said parties to negotiate fairly reasonably and proportionately in accordance with the amount of service to be rendered. Said negotiations shall be completed between the collector and the person to whom the service is rendered within sixty (60) days from the effective date of the collection contract between the Borough and the successful bidder. In the event of the inability of the person to whom such services are rendered and the collector to agree on the proper charge or rate therefor within the time limit set forth hereinabove, the Council shall have the right to determine such rates and the frequency of collection, and their decision shall be final, subject, however, to appeal by any party as provided by law:

C. The collector shall establish one day each month as a clean-up day at which time such items as discarded furniture and home appliances and other items not specifically described as garbage, rubbish or ashes, will be picked up and carried away by the collector.

D. The collector shall equip his residence or place of business with a telephone and maintain such telephone in service during the period of his contract.

E. The collector shall have sufficient employees at all times in order to render adequate service and shall keep and maintain all trucks in good repair and condition. All such trucks shall be water tight with an enclosed cargo space and each truck must be maintained in a clean and sanitary condition and all such trucks shall be so constructed and equipped as to meet all requirements of the Pennsylvania Solid Waste Management Act and other laws and regulations of the Commonwealth and Federal Government pertaining thereto. Trucks may be inspected at any time by the Borough Council or its representative. The collector shall maintain his equipment in such condition as to be able to maintain his collection schedule and any deficiency must be corrected immediately by the collector.

F. Without cost to the Borough, the collector shall collect, remove and dispose of garbage, ashes and rubbish from the Borough Office.

G. The collector shall provide and shall have available the use of a properly licensed solid waste disposal facility or area to which he shall remove and transport all refuse collected within the Borough. Said disposal area shall be properly licensed and approved under the requirements of the Pennsylvania Solid Waste Management Act, and shall meet all other requirements of applicable Federal and State law, and

if the collector is not the owner thereof, said collector shall submit to the Borough evidence of his right to use said area.

H. Promptly after the award of the contract to him, collector shall furnish Borough Council with a collection schedule for the collection of refuse within the Borough. Any changes to said schedule shall also be promptly furnished to the Borough Council. The collector shall also furnish Borough Council with a list of those persons from whom collector will be picking up refuse along with the billing address of those persons.

I. The collector shall indemnify and save harmless the Borough of and from all liability or loss resulting or arising out of or from the collection, removal and disposal of refuse and the operation, maintenance or use of the collector's disposal area.

J. The collector shall, at his own expense, obtain and keep in force during the continuation of his contract with the Borough, a policy or policies of insurance insuring himself, his agents, servants and employees against all liability arising out of the collection, removal and disposal of refuse and the ownership, maintenance or use of any disposal area provided or used by the collector, with limits



of no less than \$100,000.00/\$300,000.00. The collector shall cause a certificate to be issued to the Borough showing that such policy or policies are in full force and effect.

K. The collector shall be deemed an independent contractor and shall comply with the Workmen's Compensation Laws of the Commonwealth of Pennsylvania and will, at his own expense, procure such compensation insurance as shall be necessary and adequate to cover and protect all his employees engaged in the collection, removal and disposal of refuse. A certificate shall be issued to the Borough showing that such policy or policies are in full force and effect.

L. Every bidder for the exclusive right to collect refuse within said Borough and to remove and dispose of the same shall state in his bid the maximum amount to be charged for collections as hereinabove specified in this Ordinance.

M. The successful bidder shall, upon notification by the Borough that the contract has been awarded to him, and prior to entering upon his duties hereunder, enter into a written contract prepared by the Borough Solicitor, which contract shall provide for the collection and removal of refuse in accordance with the terms of this Ordinance, for a period of three (3) years or for such further period as Borough Council may specify, all of which contracts shall

include the conditions and terms contained herein and in the specifications. The performance of the collector shall be reviewed annually by the Borough Council.

N. The said contract shall not be transferred, set over or assigned by the collector without the prior written consent of Borough Council first had and obtained.

O. For any service rendered by the collector for which no price or rate is provided in this Ordinance or in specifications adopted pursuant hereto, or in the event of inability of the person to whom such services are rendered and the collector to agree on a proper charge or rate for collection, the Council shall have the right to decide such rate and their decision shall be final, subject, however, to appeal by any party as provided by law.

P. In the event the collector fails to comply and conform with the terms and conditions of the contract specifications and this Ordinance and rules and regulations made hereunder, Borough Council shall have the right, in addition to any other remedy, to revoke, cancel and terminate the contract and to take whatever other procedures may be deemed necessary and desirable by the Borough Council under law; and thereupon to collect the garbage, ashes and other refuse in such other manner as Borough Council may, in their judgment, deem

advisable, and in such event to charge the cost of collection against the collector and to deduct the cost thereof from any moneys due and owing; or to sue the collector for said costs by a suit in assumpsit, if necessary. In addition to the foregoing, in the event of such a default by the collector, said collector shall make available to the Borough, upon the Borough's request, all equipment and the disposal area used by the collector for such purposes for a reasonable length of time to enable Council to make other arrangements for the collection of the same so as to protect the public health. During such time the Borough shall not be liable to the collector for the use of said equipment and disposal area and the Borough shall be entitled to all charges or fees from the persons to whom it renders service during this period.

Q. If, during the term of his contract, collector desires to increase the price or rates charged for collection for any person, he shall make such a request to Council who shall have the right to determine whether such increase is needed, and whose decision shall be final, subject, however, to appeal by any party as provided by law. Any increase approved shall be effective beginning with the Monday following the decision of Council, without prior notice to customers.

R. If after reasonable efforts, collector is unable to collect any rates due him from any person, collector shall have the right to discontinue collection for that person until payment is made, after written notice by certified mail, return receipt requested, to that person. A copy of said notice shall be sent to the Borough at the Borough Office.

SECTION VII. PRE-COLLECTION PRACTICES

All persons to whom services rendered shall be required to comply with the following pre-collection practices:

A. Every person desiring the collector to collect, remove and dispose of garbage, ashes and rubbish shall provide a container or containers constructed in such manner as to be easily handled for collection, constructed of rust and corrosion resistant materials, including heavy plastics, be equipped with tight-fitting lids and constructed in such a manner as to be water-tight, leak-proof, weather-proof, insect-proof and rodent-proof. Disposable containers such as paper and polyethylene bags shall not be acceptable for storage of garbage and rubbish. The maximum size of the containers permitted shall be thirty-three (33) gallons. The price charged by the collector shall cover the collection of up to and including six (6) approved containers per

person, per week. Additional containers will be collected at an extra charge to be set by the collector with the approval of Council.

B. Refuse containers shall be placed for collection at ground level at the front of the property, unless otherwise agreed by the collector and the person or persons receiving service, but not within the right-of-way of the street or thoroughfare, and at a point accessible to collection by the collector.

C. Wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed, and highly flammable or explosive materials, shall not be placed in containers for regular collection.

SECTION VIII. It shall be unlawful for any person in control of any premises in the Borough to permit any person except the collector, or owner or tenant of said premises, to collect or remove any garbage, ashes or rubbish from such premises.

SECTION IX. It shall be unlawful for any person in control of premises within the Borough to accumulate or to permit the accumulation of garbage, ashes or rubbish on private or public property in said Borough, except for such limited period of time as shall be necessary for the disposal

of the same in compliance with this Ordinance; and it shall be unlawful for any person to dump, bury, burn or permit the dumping, burying or burning of any garbage upon any ground or within any building within the Borough.

SECTION X. It shall be unlawful for any person to throw or deposit any refuse on any street, alley, way, thoroughfare or public ground, or in any of the waters or streams in the Borough.

SECTION XI. ENFORCEMENT

A. Any person violating the provisions of this Ordinance shall, upon conviction in a summary proceeding before a Justice of the Peace or Magistrate, be sentenced to pay a fine not exceeding Three Hundred (\$300.00) Dollars and costs, and in default of payment thereof shall be imprisoned in the county jail for a period not exceeding thirty (30) days. Each day's continuance of the violation of this Ordinance shall constitute a separate offense.

B. Any person who violates any of the provisions of this Ordinance shall be deemed to be guilty of maintaining a nuisance and shall be subject to the penalties provided for in this Ordinance, and in addition, the Borough shall be authorized to pursue any other remedies it may have in law or in equity.

SECTION XII. SEPARABILITY

If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional or otherwise illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance. It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION XIII. EFFECTIVE DATE

Except for Section IV, paragraph A, the provisions of this Ordinance shall be effective as of the date of the enactment of this Ordinance.

SECTION XIV. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ENACTED AND ORDAINED this 8<sup>th</sup> day of July,  
1985.

ATTEST:

Beverly J. Brown  
Secretary

INDIAN LAKE BOROUGH,

BY Jeffrey L. Bandy  
President of Council

EXAMINED AND APPROVED this 8<sup>th</sup> day of July,  
1985.

Edward Rogant  
Mayor

I hereby certify that the foregoing ordinance is No. 62, approved July 8,  
k985, duly advertised and entered into the Ordinance Book on July 11, 1985.

Beverly J. Brown  
Secretary  
Indian Lake Borough