

ORDINANCE NO. – 2019

BOROUGH OF WEST CHESTER

CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF WEST CHESTER, SPECIFICALLY CHAPTER 62-1 TITLED, “DEFINITIONS” AMENDING THE DEFINITIONS OF “RUBBISH OR REFUSE” AND “TOBACCO OR TOBACCO PRODUCTS,”; AMENDING SECTION 62-3 “DISPOSAL REGULATIONS”; SECTION 62-4, “PUBLIC COLLECTION REGULATIONS”; SECTION 62-6, “ACCUMULATIONS OF WASTE AND LITTERING PROHIBITED”; AND SECTION 62-14, “VIOLATIONS AND PENALTIES” TO REQUIRE A NOTICE OF VIOLATION PRIOR TO THE ISSUANCE OF A CITATION FOR VIOLATIONS OF CHAPTER 62.

BE IT ENACTED AND ORDAINED, and it is hereby enacted by authority of the Council of the Borough of West Chester, as follows:

SECTION 1. Chapter 62 of the Code of the Borough of West Chester, titled, “Garbage, Rubbish and Refuse,” Section 62-1 titled, “Definitions,” is hereby amended by amending the definition of “Rubbish or Refuse” and “Tobacco or Tobacco Products” as follows:

“RUBBISH OR REFUSE

Materials considered municipal waste, including any garbage, industrial luncheon or office waste, tobacco products, solid, liquid, semisolid or contained gaseous material resulting from the operation of residential, municipal, commercial or institutional establishments and community activities and other materials not defined as residual, hazardous, infectious/pathological, liquids or explosive waste, construction or demolition debris or recyclable materials.

TOBACCO or TOBACCO PRODUCTS

Any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in smoking, chewing or other forms of tobacco consumption, including but not limited to cigarette papers, pipes, and cigarette butts.”

SECTION 2. Chapter 62 of the Code of the Borough of West Chester, titled, “Garbage, Rubbish and Refuse,” Section 62-3 titled, “Disposal regulations,” is hereby **DELETED** and **REPLACED** with the following:

“§ 62-3 Disposal regulations.

- A. Every owner of a property which contains shared or common public areas shall be responsible for maintaining such common areas in a clean and sanitary condition.
- B. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- C. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers required by this chapter.
- D. Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage storage containers required by § 62-3 of this chapter. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than four dwelling units and for all dwelling units located on premises where more than four dwelling units share the same premises. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.
- E. Garbage shall be drained free of liquids and wrapped securely in paper and shall be placed for collection, mixed with the rubbish or refuse, in waterproof covered containers. Such containers shall be kept clean and disinfected. The Borough may refuse to collect undrained garbage of a liquid or semiliquid nature, unwrapped or improperly contained.
- F. Rubbish or refuse shall be stored and placed out for collection in waterproof metal or plastic containers with handles which shall not exceed a capacity of 35 gallons. All containers shall be provided with tight-fitting lids which are windproof, ratproof and flyproof. The lid shall not, however, be roped, chained or permanently affixed to the container unless hinged by the factory. All containers must contain the street address of the owner in clear, legible and conspicuous writing on the outside of the container. Any garbage, rubbish or refuse that is not contained and/or placed in a waterproof metal or plastic container with handles not exceeding a capacity of 35 gallons or in a disposal bag will not be collected by the Borough.
- G. The Borough shall provide curbside collection of yard waste and bundled tree branches. Branches and yard waste shall be tied with biodegradable twine into bundles no larger than four feet long and 18 inches in diameter. Biodegradable paper bags shall also be permitted. Plastic bags will not be

collected. Tree branches thicker than four inches will not be collected. Loose, uncontained yard waste will not be collected.

- H. No rubbish or refuse container, including the contents thereof, shall exceed 60 pounds. No disposal bag shall exceed 40 pounds.
- I. No live coals or fire shall be placed in any container or placed out for collection.
- J. No infectious or disease-bearing waste or rubbish, explosives or human or animal feces shall be placed in any container or placed out for collection. This restriction shall not prohibit disposal of diapers or animal waste contained in a separate sealed bag.
- K. No pesticides, herbicides or hazardous waste, as such term is defined by federal, state, county or local law, shall be placed in any container or placed out for collection.
- L. All municipal waste generated within the corporate limits of the Borough of West Chester shall be disposed of only in facilities designated to receive waste from the Borough in accordance with the Chester County Municipal Waste Flow Control Ordinance.
- M. It shall be unlawful to burn, whether open or contained, any garbage, rubbish or refuse, recyclable materials, leaves or yard waste as defined in this chapter.
- N. A disposal bag shall be used on a collection day when there is a quantity beyond two thirty-five-gallon cans (or their equivalent); provided, however, that no more than four disposal bags may be used at any one time. A disposal bag shall be set out on a collection day outside of a sealed can. A disposal bag may be purchased at the Borough at a cost to be established by Council from time to time by resolution, which cost shall not be less than \$2.50 per disposal bag; provided, however, that merchants may purchase disposal bags from the Borough for resale to residents of the Borough for five cents less than the cost established by Borough Council from time to time by resolution for a disposal bag purchased at the Borough. The disposal bag shall not be filled so as to weigh more than 40 pounds and shall be securely tied and sealed at the time of collection.”

SECTION 3. Chapter 62 of the Code of the Borough of West Chester, titled, “Garbage, Rubbish and Refuse,” Section 62-4 titled, “Public collection regulations,” is hereby **DELETED** and **REPLACED** with the following:

“§ 62-4 Public collection regulations.

- A. Combined garbage, rubbish or refuse shall be collected from each qualified unit once a week.
- B. All properties which generate two thirty-five-gallon cans (or their equivalent) plus four or fewer disposal bags per week of garbage, rubbish and refuse shall be required to receive garbage, rubbish and refuse collection once each week by the Borough or its authorized agent. Those properties which require more than the equivalent of two thirty-five-gallon cans plus more than four disposal bags per week for the disposal of garbage, rubbish and refuse will be required to employ a private collector to collect such property's garbage, rubbish and refuse. When it is determined by the Director of Public Works that the amount of garbage, rubbish and refuse set out by a property for public collection exceeds the equivalent of two thirty-five-gallon cans plus more than four disposal bags per week for the disposal of garbage, rubbish and refuse amount on a regular basis, the Director of Public Works shall notify the property owner that the Borough will cease further collections for the concerned property and that the property owner will be required to make arrangements to have a private collector assume such collections.
- C. Persons required to avail themselves of the use of private collectors shall have at least one collection a week or more often as necessary to protect the public health and safety, with more frequent collection if, in the opinion of the Borough Code Enforcement Officer, the public health and safety so require it. The Borough will not collect any rubbish from properties which are required to employ a private collector.
- D. Garbage, rubbish and refuse shall be collected from the curb on the days specified by Borough regulations. Where the properties abut on alleys, the aforesaid collection shall be at the alleys. Containers shall be set out not later than 7:00 a.m. on the day of collection and not earlier than 6:00 p.m. of the day preceding collection. Empty containers shall be taken inside the property lines and must be stored on the property in a location that is not visible from the public street in front of the property not later than 12:00 midnight of collection day, unless, where no location exists which is not visible from the public street(s) in front of the property, an alternative location is approved by the Director of the Department of Building, Housing and Code Enforcement.
- E. Borough forces will not enter private property for the purpose of collecting refuse or rubbish without a legal release from damages signed by the owner of such property. Releases will be obtained if, in the opinion of the Director of Public Works, it is advantageous to the Borough to have Borough vehicles enter such property. Property and accesses thereto must be large enough so as not to impede or delay the movements of Borough vehicles.

- F. Collections which fall on holidays will be collected starting on the following day.”

SECTION 4. Chapter 62 of the Code of the Borough of West Chester, titled, “Garbage, Rubbish and Refuse,” Section 62-6, titled, “Accumulations of waste and littering prohibited,” is hereby **DELETED** and **REPLACED** with the following:

“§ 62-6 Accumulations of waste and littering prohibited.

No person owning or occupying any building, lot or premises shall allow any garbage, waste, refuse, rubbish, tobacco products, or abandoned vehicles to collect or remain upon said property, or on any shared or common public areas such as the sidewalk in front of or adjacent to the property; provided, however, that this prohibition shall not be construed as interfering with construction under a valid permit during the course of construction and within a reasonable time thereafter or the piling of wood neatly for fireplace or kitchen use. No garbage, refuse or rubbish tobacco products or abandoned vehicles shall be permitted to accumulate on the ground nor be deposited on highways, streets, alleys, sidewalks, vacant lots or public grounds nor be thrown into a stream or other body of water.”

SECTION 5. Chapter 62 of the Code of the Borough of West Chester, titled, “Garbage, Rubbish and Refuse,” Section 62-8.D, titled, “Private Collection Regulations” is hereby **DELETED** and **REPLACED** with the following:

- “D. Private collectors shall be permitted to collect, remove and transport garbage, rubbish and refuse within the Borough of West Chester on all days of the week, except Sunday and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Where the properties abut an alley, garbage, rubbish and refuse shall be collected from the alley. All containers used to store garbage, rubbish and refuse must be stored on the property in a location that is not visible from the public street in front of the property, unless where no location exists which is not visible from the public street(s) in front of the property, an alternative location is approved by the Director of the Department of Building, Housing and Code Enforcement. Unless otherwise authorized by the Director of the Department of Building, Housing and Code Enforcement, the collection of garbage, rubbish and refuse shall not commence before 7:00 a.m. and may not continue after 6:00 p.m.”

SECTION 6. Chapter 62 of the Code of the Borough of West Chester, titled, “Garbage, Rubbish and Refuse,” Section 62-14, titled, “Violations and penalties,” is hereby **DELETED** and **REPLACED** with the following:

“§62-14. Violations and penalties.

- A. It shall be a violation under this chapter for any public or private collector to mix recyclables with refuse.
- B. In any case where any person violates or permits the violation of any provision of this chapter, the Borough shall send a notice of violation to the property owner of the property at which a violation exists advising of the specifics of the violation and ordering the property owner to pay a fine of \$30 for a first offense, \$50 for a second offense, and \$100 for a third offense payable to the Borough of West Chester within seven days. Any fourth or subsequent violation will result in the automatic issuance of a citation with a fine of not less than \$200 and not more than \$1,000, which will be filed at District Court. If the property owner fails to pay the fine within seven days of issuance of the notice of violation, the Borough shall issue a citation to the property owner who shall, upon conviction thereof in a summary proceeding brought before a District Justice, be guilty of a summary offense and shall be subject to the payment of a fine of not less than \$50 and not more than \$1,000, plus the costs of prosecution. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a period of not more than 30 days.
- C. If any person who has violated or permitted the violation of any provision of this chapter further fails, neglects, or refuses to fully abate the violation within 24 hours of being issued a notice of violation, the Borough shall issue a citation to the owner who shall, upon conviction thereof in a summary proceeding brought before a District Judge, be guilty of a summary offense and shall be subject to the payment of a fine of not less than \$50 and not more than \$1,000, plus the costs of prosecution. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a period of not more than 30 days. Each section or provision of this chapter that is violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense, each of which violations shall be punishable by a separate fine imposed by the District Judge of not less than \$50 and not more than \$1,000, plus the costs of prosecution, and, upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term not more than 30 days.”

SECTION 7. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Council of the Borough of West Chester that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 8. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 9. EFFECTIVE DATE. This Ordinance shall become effective upon enactment as provided by law.

ENACTED AND ORDAINED THIS _____ DAY OF _____, 2019.

ATTEST:

**COUNCIL FOR THE BOROUGH
OF WEST CHESTER**

Michael A. Perrone, Secretary

By: _____
Diane C. LeBold, President

APPROVED THIS _____ DAY OF _____, 2019.

Dianne T. Herrin, Mayor