

ARTICLE 1162

Solid Waste Collection and Enforcement

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CROSS REFERENCES

- Power to regulate Municipal Solid Waste Collection, Removal and Disposal - See Third Class City Code (11 Pa.C.S. § 12409)
- Removal of rubbish from streets - See Gen. OFF. Art. 721
- Mechanical food waste disposals - See BLDG. Art. 1717
- Pennsylvania Solid Waste Management- Act 97-1980 (35 P.S. § 6018.101 et seq)
- Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P.S. § 4000.101 et seq)
- Optional Third Class City Charter Law, 901-1957 (53 P.S. § 41101 et seq)
- Board of Health power to abate nuisances - See Third Class City Code (11 Pa.C.S. § 12300 et seq)

STATEMENT OF FINDINGS

The City of Bethlehem shall regulate the time and manner of garbage, refuse disposal and collection within the City in an effort to prevent environmental contamination and the spread of disease through vector and animal populations. Garbage not properly stored and collected may feed and harbor vectors and animals that have been proven to spread diseases throughout the City and surrounding communities. Failure to properly store the garbage may cause substances contained within the garbage to leak, thereby contaminating the surrounding environment. The collection of garbage shall occur as prescribed in this Article so as to preserve the health and quality of life of residents in the City.

1162.01 DEFINITIONS.

“Approved” means approved and acceptable to the Department of Community and Economic Development of the City of Bethlehem.

“City” means the City of Bethlehem located in the counties of Northampton and Lehigh, Pennsylvania, a Pennsylvania Municipal Corporation.

“City limits” means the corporate limits of the City of Bethlehem

“Commercial establishment” means any group of more than four (4) dwelling units, and establishments engaged in non-manufacturing or non-processing business, including, but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters.

“Container” means any receptacle approved by the Department of Community and Economic Development for the storage of solid waste for collection by a hauler for disposal.

“Disposal” means the deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of this Commonwealth.

“Disposal site” means any state-permitted site, facility, location, area or premises to be used for the disposal of solid waste.

“Dwelling” means a building having one or more dwelling units.

“Dwelling unit” means a room or group of rooms within a dwelling and forming a single unit and used for living and sleeping purposes, having its own cooking facilities, and a bathroom with a toilet and a bathtub or shower.

“Garbage” means the animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

“Grass clippings” means waste generated from the mowing and cutting of lawns, which is placed in containers or earth bags for collection.

“Hauler” means any owner of a solid waste transportation vehicle licensed under Pennsylvania Act 90 and holding a valid City of Bethlehem Business Privilege License.

“Hazardous waste” means any garbage, refuse, sludge from an industrial or other waste water treatment plant, sludge from a water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities, or any combination of the above, (but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880) or source, special nuclear, or by-product material

as defined by the U.S. Atomic Energy Act of 1954, as amended (68 Stat. 923), which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or
- (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

The term “hazardous waste” shall not include coal refuse as defined in the act of September 24, 1968 (P.L. 1040, No. 318), known as the “Coal Refuse Disposal Control Act.” “Hazardous waste” shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the act of June 22, 1937 (P.L. 1987, No. 394), known as “The Clean Streams Law.”

“Industrial establishment” means any establishment engaged in manufacturing or processing, including, but not limited to factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

“Institutional establishment” means any establishment engaged in service, including, but not limited to, hospitals, nursing homes, orphanages, schools and universities.

“Mining” means the process of the extraction of minerals from the earth or from waste or stockpiles or from pits or banks.

“Municipal waste” means garbage, refuse, industrial lunchroom, or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and sludge not meeting the definition of residual or hazardous waste from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant or air pollution control facility. The term does not include source-separated recyclable materials. The term “municipal waste” shall include rubbish.

“Pa. D.E.P.” means the Pennsylvania Department of Environmental Protection.

“Person” means an individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or agency, State institution and agency (including, but not limited to, the Department of General Services and the State Public School Building Authority), or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In the provisions of this Article pertaining to a fine, imprisonment or penalty, or any combination of the foregoing, the term “person” shall include the officers and directors of any corporation or other legal entity having officers and directors.

“Premises” means any parcel of real property in the City, including the land and all buildings and appurtenant structures or appurtenant elements.

“Occupant” or “tenant” means a person who occupies any residential, commercial, industrial, institutional or municipal establishment, whether or not the person is the owner thereof, with whom a legal relationship with the owner is established by a written lease or by other legally enforceable agreement under the laws of the Commonwealth of Pennsylvania.

“Owner” means one or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership.

“Public nuisance” means that which is set up, maintained, continued or permitted to exist, so as to be injurious to the public health, or an obstruction to the use of property by interfering with the repose, health, safety or life of any person; whatever is dangerous to human life or health; whatever renders the air, food, water, drink, or any product unhealthy, dangerous or injurious to human life or health. It shall be a violation of this Article to establish or allow such nuisance to continue to exist. The Bureau of Health shall determine when a nuisance is being created or perpetuated.

“Recycling” means the collection, separation, recovery and sale or reuse of metals, glass, paper, plastics and other materials which would otherwise be disposed or processed as municipal waste.

“Recyclable materials” means all materials as described in Article 933 of the Codified Ordinances of the City of Bethlehem.

“Residential establishment” means any dwelling of no more than four (4) dwelling units.

“Residual waste” means any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility, provided that it is not hazardous. The term “residual waste” shall not include coal refuse as defined in the act of September 24, 1968 (P.L. 1040, No. 318), known as the “Coal Refuse Disposal Control Act”. The term “residual waste” shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the act of June 22, 1937 (P.L. 1987, No. 394), known as the “Clean Streams Law.”

“Roll-off container” means a large container, which is placed by a hauler for the purpose of accumulating waste and which is then picked up and rolled on a specially framed truck rack in its entirety and transported to and emptied at a disposal site.

“Rubbish” means waste materials other than garbage. The term “rubbish” shall include the residue from the burning of wood, coal, coke and other materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials.

“Solid waste” means any waste, including but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials. The term “solid waste” does not include coal ash or drill cuttings as those terms are defined in 35 P.S. § 6018.13.

“Storage” or “store” means the containment of any solid waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any solid waste in excess of one year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

“Transportation” or “transport” means the offsite removal of any solid waste at any time after generation.

“Yard waste” means leaves, garden residue, shrubbery, tree trimmings and similar materials excluding grass clippings.

1162.02 DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT TO REGULATE COLLECTION DISPOSAL.

The Director of Community and Economic Development or his or her designee shall, to the fullest extent permitted by law, formulate and regulate all aspects of the collection, transportation and disposal of solid waste from the point of origin to the point of disposal. The Director shall formulate and promulgate rules and regulations necessary to implement all aspects of the minimum standards to be observed for the collection, transportation and disposal of solid waste. Such standards shall be observed and in force by all haulers and shall be filed in the Office of the City Clerk and the Department of Community and Economic Development. Any violation of any rule or regulation formulated and promulgated by the Director pursuant to this Article 1162.02 shall be deemed a violation of this Article.

1162.03 CONTAINER STANDARDS.

The Director of Community and Economic Development or his or her designee shall formulate standards for the size and types of containers which shall be approved for use under the provisions of this Article and shall have jurisdiction of waste stream to the point where the waste is placed in a hauler’s vehicle. No person shall store solid waste in containers other than containers approved by the Director of Community and Economic Development, or his or her designee. At a minimum, all containers must be composed of a rigid material and leak proof, with tight fitting lids to prevent scavenging by animals.

1162.04 ACCUMULATION OF SOLID WASTE, RUBBISH AND GARBAGE.

(a) Owners shall maintain their premises free from any solid waste, garbage, rubbish, and debris except for that which is properly prepared and stored in compliance with this Article.

(b) Every occupant of any premises shall dispose of all solid waste in a clean and sanitary manner by placing such waste in approved containers, which shall be collected in compliance with this Article.

(c) Every occupant of any premises shall maintain the interior and exterior thereof to a level of sanitation whereas a public nuisance does not occur.

(d) No person shall place or store any furniture, materials or other similar products designed, built or manufactured exclusively for indoor living use on exterior porches, in yards or any part of the exterior of a premises. The storage or placement of automobile car seats and other non-weather resistant materials shall also be prohibited.

(e) Burning. No person shall ignite, cause, feed, permit or maintain any fire for the destruction or disposal of solid waste, yard waste or grass clippings on or in any premises or structure.

(f) Disposal of Yard Waste. All persons shall keep yard waste separate from all other forms of solid waste. Leaves shall be collected by the City in the fall of each year and shall be disposed of at a designated City facility, operated in accordance with any applicable regulations of the Pa.D.E.P. Yard waste will be collected by the City twice a year at curbside. Residents may also use the designated City facility.

(g) Grass Clippings. Grass clippings are not permitted to be disposed of with yard waste or solid waste. All grass clippings are to be mulched into the yard from which they were collected.

(h) Any articles found within a waste container, recycling container or garbage bag displaying the name or address of a person or persons shall be presumed to be the property of such person or persons. The presumption may be overcome by clear and convincing evidence to the contrary.

(i) Owners of commercial, industrial, municipal and institutional establishments shall store any solid waste generated at the establishment in the same manner and in the same types of containers as are approved for residential establishments except where the accumulation of solid waste makes the use of such containers impracticable, in which case the owner shall make special arrangements with a hauler for the storing of additional quantities of solid waste. If, to accommodate the additional quantities of solid waste, the hauler intends to provide the owner with a dumpster, the dumpster must be approved by the Director of Community and Economic Development or his or her designee prior to being placed in use. At a minimum, the dumpster and location of the dumpster must meet zoning and public right-of-way requirements, including any requirements set forth in Article 721 of the Codified Ordinances of the City of Bethlehem, and shall have a lid which must remain closed except when solid waste is being added to or removed from the dumpster.

(j) No person other than a hauler, owner or authorized agent thereof may place or remove any article from any container in which solid waste is stored. The solid waste container

shall be kept clean and in good repair. In the event of contract termination, it shall be the responsibility of the hauler servicing the container to empty and remove it, at the hauler's cost and expense.

(k) Owners of premises shall comply with the requirements of this Article 1162.04 by establishing a collection system for solid waste at the premises. It is the owner's responsibility to ensure that the collection system includes proper and adequate containers for collecting and storing waste, easily accessible locations for the containers, and written instructions to each occupant of any commercial, municipal, industrial or institutional establishment concerning the use and availability of the collection system. All written instructions shall be available for review and approved by the Director of Community and Economic Development, or his designee.

1162.05 OWNER RESPONSIBILITY FOR SOLID WASTE SERVICES.

(a) Owners shall be responsible for preventing accumulation of solid waste on their premises and for violations of City ordinances or regulations dealing with storage of solid waste. All owners shall provide for solid waste collection services by a hauler. The responsibility imposed upon owners by this Article 1162.05 may not be satisfied by delegation to tenants, lessees, householders, or any other person.

(b) Pursuant to Article 1739.02 of the Codified Ordinances of the City of Bethlehem, every owner who is not a full-time resident of the City or who does not reside within a twenty (20) mile radius of the City shall designate a manager who shall reside in an area that is within a twenty (20) mile radius of the City. The designation of the manager shall comply with Article 1739.02(B) of the Codified Ordinances of the City of Bethlehem.

(c) Upon probable cause that an owner has failed to provide for solid waste collection services in violation of subsection (a), the owner shall, within 72 hours of a request to do so, provide the City with written confirmation that, as of the date of the City's request, the owner had retained a hauler for solid waste collection services.

1162.06 HAULER RESPONSIBILITY FOR SOLID WASTE COLLECTION.

(a) If at any time a hauler contracted to perform solid waste collection services at any premises within the City misses the contracted collection date, it is the responsibility of the hauler to make immediate alternate removal arrangements so as to prevent the occurrence of a public health nuisance or violation of this Article.

(b) It shall be a violation of this Article for any hauler of solid waste or any kind of waste, including residual and hazardous waste, to transport such waste within the City limits in an environmentally unsafe manner.

(c) All open vehicles, containers transported in open vehicles and all roll-off containers used in the transportation of municipal waste, solid waste, residual waste or recyclable materials will be tightly tarped or covered at all times during transportation.

(d) Any hauler transporting solid waste shall prevent and remedy any spillage from its vehicles and containers.

(e) Vehicles or containers shall not be overfilled, and shall be cleaned at sufficiently frequent intervals to prevent obnoxious odors or unhealthy conditions. Vehicles shall be so constructed, loaded and driven as to prevent any portion of the load from falling out upon any street, highway or property.

(f) Any industrial or commercial establishment located in the City using its own or leased vehicle(s) to haul or transport solid waste or any other kind of waste from its establishment to a landfill or any other disposal location shall provide copies of weight slips for the most recent two (2) quarters to the City within 72 hours of a request to do so.

1162.07 PLACEMENT OF CONTAINERS.

(a) No owner, lessee, tenant, householder or any other person shall deposit, throw, place or cause to be deposited, thrown or placed, any solid waste on any street, private alley or vacant lot, public areas and waterways, both natural and man-made, within the City limits.

(b) Containers may be stored anywhere on a premises except:

- (1) No container shall be stored in the front of any building on the premises unless the building is located in an area where there is no access to the rear or sides by way of easement or public right-of-way. In such a situation, the container shall be stored on a porch, if possible, to remove it from the public right-of-way. If a container is stored on the porch, the owner is responsible for minimizing smell and preventing the existence of a public nuisance.
- (2) No containers shall be stored more than five feet from the front, rear or sides of a building, except as provided in Article 1162.08(d).
- (3) No person shall store containers for solid waste, ashes, rubbish, manure or garbage on any street, private alley, public right of way or vacant lot.

1162.08 PREPARATION OF SOLID WASTE FOR COLLECTION.

(a) Occupants of residential, commercial, municipal, industrial and institutional establishments shall deposit all solid waste accumulated within the establishment since the previous collection of solid waste in containers approved by the Director of Community and Economic Development or his or her designee.

(b) No solid waste shall be placed in any container unless the solid waste has been thoroughly drained of all excessive moisture

(c) Solid waste must be contained in a primary collection bag prior to placement into an approved container. Placement of loose and unwrapped solid waste into a container, without primary containment through the use of garbage bags or similar materials, is a violation of this Article. With prior approval from the City Department of Health, rubbish not fitting into an

approved container shall be tightly bundled, with the maximum length of the bundle not to exceed three feet and the maximum width not to exceed three feet, and shall be stored in the manner set forth in Article 1162.07.

(d) No earlier than 6:00 PM on the day preceding a collection day, containers may be placed anywhere on the property except that they cannot be placed within 5 feet of the public right of way. Containers shall be returned to a place no more than five feet from the front, rear or sides of a building no later than 8:00 PM on the collection day.

1162.09 TIME, FREQUENCY AND MANNER OF COLLECTION.

(a) Solid waste collection shall be on a six (6) day per week basis (Monday through Saturday) and shall take place between the hours of 5:00 AM and 4:00 PM on south side of the City, and between the hours of 6:00 AM and 4:00 PM on the north side of the City.

(b) Solid waste collection from commercial, municipal, industrial and institutional establishments may be on a seven (7) day per week basis and shall take place between the hours of 6:00 AM and 4:00 PM, except that Sunday collection shall only take place between the hours of 8:00 AM and 12:00 Noon.

(c) After a hauler collects solid waste from a container, it shall promptly return the container to the point of pickup. Any hauler who does not return a container to the point of pickup or leaves waste lying on a right-of-way or private property, shall be subject to the penalties under this Article. A hauler shall also gather, collect and remove, within four hours of notification by the City Bureau of Health, all waste which, by accident or otherwise, may have been placed or fallen on the sidewalk, street or highway by such hauler.

1162.10 FAILURES TO COMPLY; COST OF LIEN.

Should any person refuse, neglect or fail to comply with any of the terms, provisions and requirements of this Article, or with any notice given in conformity with or pursuant to the provisions hereof, then the Director of Community and Economic Development, or his or her designee, is empowered and directed to engage all labor and furnish all materials necessary or required to comply with the notice and the cost and expense thereof, together with twenty percent, added thereon as a penalty, which shall be certified to the City Solicitor, who shall enter the same as a lien against the property in the Court of Common Pleas of Northampton or Lehigh Counties and shall proceed to collect it in like manner as other municipal claims are by law collectible.

1162.12 LIABILITY OF OWNER.

An owner shall be equally liable with any tenant for a violation of any of the provisions of this Article and for any expense incurred by proper authority in the abatement of any nuisance specified by the provisions of this Article.

1162.13 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

1162.99 PENALTIES AND ENFORCEMENT.

(a) Any person who violates any provision of this Article shall be subject to the following penalties:

- (1) First Violation - A fine of \$200, or thirty days imprisonment, or both;
- (2) Second Violation - A fine of \$500, or sixty days imprisonment, or both;
- (3) Third and Subsequent Violations - A fine of \$1,000, or ninety days imprisonment, or both;

(b) Each continuing day of violation of this Article shall constitute a separate offense.

(c) The Director of Community and Economic Development is hereby granted the power to designate those having the power to enforce this Article and issue citations.

(Article 1162 established by Ord. 2016-14. Passed 6/7/2016)