

Chapter 158

SOLID WASTE

[HISTORY: Adopted by the Borough Council of the Borough of Chester Heights as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 123.

Sewers — See Ch. 149.

Zoning — See Ch. 185.

ARTICLE I

Dumping, Littering and Stream Pollution

[Adopted 12-5-1960 by Ord. No. 43A]

§ 158-1. Prohibited acts.

It shall be unlawful for any person, persons, or corporations to dump ashes, rubbish, garbage, papers, machinery, junk, or any refuse or waste matter whatsoever within the limits of the Borough of Chester Heights without first having obtained a permit from Borough Council for dumping on locations approved by Borough Council; provided, however, that nothing in this section shall deprive a resident from dumping or burning his or her own household trash or rubbish on their own property with the limitation that such dumping or burning of household trash or rubbish shall be done in a manner that will not constitute a danger, nuisance or eyesore, nor be a violation of pertinent provisions of Chapter 97, Fire Prevention, of the Code of the Borough of Chester Heights.

§ 158-2. Dumping on private property.

It shall be a violation of this article for any property owner to permit the dumping by others of any ashes, rubbish, garbage, papers, machinery, junk, or any refuse or waste matter whatsoever upon his ground in violation of the terms of this article without first having obtained a permit from Borough Council for dumping on his premises.

§ 158-3. Automobile dumps.

It shall be unlawful for any person, persons, or corporations to set up, establish or maintain an automobile dump or graveyard where old automobiles, or parts thereof, are kept and stored either for business or for other purposes.

§ 158-4. Depositing of material on roads prohibited.

It shall be unlawful for any person, persons or corporations to cause any earth, stones, bricks, building material or any other substance to collect upon any of the roads of the Borough by reason of moving the same over such roads in or upon any type of vehicle or by hauling through mud or dirt onto the highway, depositing it thereon so as to be unsightly or dangerous, or to

interfere with the use of said roads.

§ 158-5. Dumping in streams.

It shall be unlawful for any person, persons or corporations to contribute to stream pollution by dumping ashes, rubbish, garbage, papers, machinery, junk or any refuse or waste matter whatsoever within a distance of 50 feet of the bank of any stream or in any area subject to periodic or occasional inundation within the limits of the Borough of Chester Heights.

§ 158-6. Violations and penalties.

Any person, persons, or corporation violating this article, or any of the provisions thereof, shall pay, upon conviction in summary proceedings before any District Justice of Delaware County, a fine of not less than \$25 nor more than \$100 and, in default thereof shall be committed to the county prison for not less than 10 days nor more than 30 days. Each day this article is violated shall constitute a separate and additional offense.

ARTICLE II
Recycling
[Adopted 4-23-1985 by Ord. No. 94]

§ 158-7. Definitions.

The following words and phrases shall have the meanings respectively assigned to them by this section:

NEWSPAPER — Includes paper of the type commonly referred to as newsprint and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest. Magazines and periodicals as well as all other paper products of any nature are not considered newspaper.

RECYCLABLES — Material having an economic value in the secondary materials market. The following materials have such economic value: aluminum cans and articles, bimetal cans, glass containers, corrugated paper (cardboard and paper boxes), magazines, computer printout paper, computer tab cards, office tapes, steel cans, newspaper and paper products not chemically coated.

§ 158-8. Establishment of program.

There is hereby established a recycling program for the mandatory separating of recyclables from garbage and rubbish in the Borough of Chester Heights.

§ 158-9. Separation of recyclables and placement for removal.

Newspapers shall be kept separate from other refuse and shall be collected by the Borough or under subcontract by its designated agent. Individual household units shall separate and prepare for collection these materials in the following manner: newspapers shall be tied both across and lengthwise in easy-to-manage bundles or placed in paper bags and kept dry. These materials shall be placed either at the curbside to be collected at times designated by the Borough or placed in recycling shelters at any time.

§ 158-10. Collection by unauthorized person.

- A. From the time of placement of recyclables at the curb or in recycling shelters for collection in accordance with the terms hereof, items shall be and become the property of the Borough of Chester Heights or its authorized agent. It shall be a violation of this article for any person unauthorized by the Borough to collect or pick up or cause to be collected or picked up any such items. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.
- B. It shall be unlawful for a person to collect, remove or dispose of solid waste which contains newspaper combined with other forms of solid waste.
- C. The Borough Council, or its agent, is empowered to designate the day(s) of the month on which recyclables shall be collected, removed and disposed of from a particular area.

§ 158-11. Violations and penalties.

Any person, firm or corporation who violates or neglects to comply with any provision of this article or any regulation promulgated pursuant thereto shall, upon conviction thereof, be punishable by a fine not to exceed \$300, except that the maximum fine for failure to comply with § 158-9 hereof shall not exceed \$10 for the first offense or \$50 for any succeeding offense. No enforcement of § 158-9 of this article shall be made until two months from the effective date hereof.

§ 158-12. Additional methods of disposal.

Any resident may donate or sell used newspapers to any person, partnership or corporation whether operating for profit or not for profit. Said person, partnership or corporation may not, however, under any circumstances pick up said used newspapers from the curbside in the Borough of Chester Heights.

ARTICLE III
Collection and Disposal
[Adopted 7-6-1987 by Ord. No. 103]

§ 158-13. Definitions.

- A. The following terms shall have the following meaning in this article:

COLLECTOR — Any person collecting or transporting municipal solid waste for owners or occupants of property in the Municipality, including the Municipality itself if it undertakes the collection of municipal solid waste directly, and any business or institution within the Municipality which generates municipal solid waste and uses its own employees and equipment for the collection and transport of the waste.

CONTRACTOR — One or more contractors with whom the county or the Delaware County Solid Waste Authority (hereinafter referred to as "Authority") contracts for construction and operation of the proposed resource recovery plant or plants, or other solid waste facilities.

MUNICIPALITY — The Borough of Chester Heights.

MUNICIPAL SOLID WASTE — Any garbage, refuse, industrial lunchroom or office waste, and other material including solid or semisolid material generated in residential, municipal, commercial, or institutional establishments and from community activities, and other solid waste which is within the definition of "municipal solid waste" as set forth in the Act¹ and which the county, Authority, or contractor by its ordinance or regulations is willing to accept at the plant, but excluding any liquid waste or sludge; all wastes which are defined by existing or future federal or state law or regulations as hazardous waste or industrial residual waste; any waste which may be marketable and which is intentionally segregated for purposes of recycling; and materials specifically excluded under applicable county ordinances.

PERSON — Any individual, partnership, association, corporation, or governmental entity, with the exception of the county, Authority, or designated contractor.

PLANT — The energy and/or material recovery facility or facilities, transfer station or solid waste plants owned by the county or Authority or the contractor, including all associated property and equipment.

SOLID WASTE FACILITY — Any site owned and operated by the county, the Authority, or its designated contractor for the purpose of transfer, processing, or disposal of municipal solid waste, including landfills, resource recovery plants, and transfer stations.

B. Certain terms used herein are also defined in the recitals hereto.

§ 158-14. Unlawful acts.

It is hereby declared to be unlawful and a public nuisance for any person to accumulate upon any property in this Municipality any municipal solid waste or to dispose of it except in accordance with this article and other applicable laws, ordinances or regulations.

§ 158-15. Plant operations and charges.

The Municipality has been advised by the county that the Solid Waste Plan proposes to provide for a plant or plants which will be operated efficiently and economically by the contractor and/or by the county and in accordance with all applicable laws and regulations and, also, that the contractor and/or the county will impose reasonable charges, which will be uniform among all classes of users of the plant or plants.

§ 158-16. Operations by licensed collectors.

Except as it pertains to municipal solid waste collected directly by this Municipality, all collectors of municipal solid waste generated within the Municipality shall be licensed by the Municipality and shall be responsible for collecting municipal solid waste from properties in the Municipality pursuant to a contract between them and the Municipality and/or contracts between them and the owners or occupants of properties.

§ 158-17. Disposal at designated site.

1. Editor's Note: See 35 P.S. § 6018.101 et seq.

All collectors shall deliver and dispose of all municipal solid waste collected within the Municipality at the solid waste facility designated by the county, subject to such reasonable regulations for the operation thereof as may be established by the county and/or contractor. Delivery and disposal at any other place shall be a violation of this article and cause for revocation of the collector's license, except in special circumstances approved in advance by the Municipality and the county and/or contractor. All collectors shall comply in their operation with all applicable laws, ordinances, and regulations pertaining to the collection and transportation of municipal solid waste.

§ 158-18. Private dumps, transfer stations, and landfills.

No person shall use or permit to be used any property owned or occupied by him within the Municipality as a public or private dump, transfer station, or landfill for municipal solid waste, whether generated within the Municipality or elsewhere, without the express written approval of the Municipality.

§ 158-19. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof in a summary proceeding before a District Justice, be sentenced to pay a fine of not more than \$300 and, in default of payment thereof, shall be committed to the county jail for a period not exceeding 30 days; and each day's continuance of a violation of this article as well as each truckload of illegally delivered trash shall constitute a separate offense.

§ 158-20. Abatement of nuisance.

In addition to the remedies provided in § 158-19 herein, any continued violation of this article or other applicable law which shall constitute a nuisance in fact, or which in the opinion of the governing body of this Municipality shall constitute a nuisance, may be abated by proceeding against the violator in a court of equity for relief.

§ 158-21. Promulgation of additional standards.

The collection of municipal solid waste in the Municipality and the disposal thereof shall be subject to such further reasonable rules and regulations as may from time to time be promulgated by the governing body of the Municipality, including but without limitation regulations as to the form of license application, the amount of fee to be charged for said licenses, and the terms of the licenses and license issuance procedures; provided, however, that no such rules and regulations shall be contrary to the provisions of this article, the County Solid Waste Plan, or applicable law.

§ 158-22. Amendments to standards; contract.

The Municipality reserves the right to amend this article or repeal it at any time; provided, however, that the requirement for use of the designated solid waste facility for disposal of municipal solid waste from the Municipality shall not be amended or repealed without the prior express written approval of the county during the term of the contract between the county (or Authority) and contractor providing for the construction and operation of the plant, which

contract shall have a term of 25 years. For the purposes of securing the contractor's financing, such requirement shall be deemed to be a contract between the county, the contractor, and the Municipality, which the Municipality (subject to the terms of the joint cooperation agreement set forth below) agrees to enforce so that the municipal solid waste from the Municipality will be available to provide a source of energy for the plant. If the Municipality is not now a collector but in the future it becomes a collector it agrees to deliver all municipal solid waste so collected to the plant.

§ 158-23. Joint cooperation agreement.

- A. The Municipality agrees to deliver or cause to be delivered during the term of this agreement all municipal solid waste, as defined herein, generated within the Municipality for disposal at a facility designated by the county.
- B. The County agrees to accept for disposal all such municipal solid waste described in Subsection A above upon completion and commencement of operation of the plant in accordance with a contract, containing terms satisfactory to the county, with the contractor providing for construction and operation of the plant.
- C. The term of this agreement shall be for a period of 25 years, and said term shall commence on the date when the county advises the Municipality that the plant is operational. The Municipality at its option may terminate this agreement with 30 days' written notice to the county in the event that the Municipality will incur substantial costs over and above the costs generally accepted by the other municipalities in delivering municipal solid waste to the county during the term of this agreement, provided the Municipality has first obtained final approval from the Department of Environmental Protection for their own plan under the Act, or an approval from the Department for a modification that brings the Municipality under another plan that has already obtained final approval. It is understood, however, that (upon any such termination of this agreement by the Municipality) the county, the Authority, and/or the county's contractor shall be relieved of any responsibility to accept and dispose of municipal solid waste generated within the Municipality. It is further understood that any such termination of this agreement by the Municipality shall constitute a repeal, whether express or implied, of § 158-24 of this article.
- D. The county shall hold harmless and defend the Municipality from any suit, claim or action challenging the legality of this article against the Municipality. In the event that any such suit, claim or action is brought against the Municipality, the Municipality shall authorize the county, through its designated legal counsel, to defend against the same, and the Municipality shall cooperate with the county in said defense and shall give the County Solicitor notice of any such suit, claim or action within five days of the Municipality's receiving notice thereof.

§ 158-24. Adoption of solid waste management plan.

- A. The Department of Environmental Protection has recommended that the requirements of the Solid Waste Management Act² can best be accomplished on a countywide basis.

2. Editor's Note: See 35 P.S. § 6018.101 et seq.

- B. The Municipality, by formal resolution dated April 2, 1984, authorized the county to prepare the Solid Waste Management Plan on the Municipality's behalf.
- C. The county, through the staff of its Public Works Department, its Planning Commission, and Charles M. Harris and Associates, Inc., Consulting Engineers, prepared a ten-year plan for solid waste management.
- D. The appropriate Municipal officials of this Municipality have reviewed the findings and recommendations of the plan as it affects this Municipality, have found the plan acceptable, and have recommended that the plan be adopted.
- E. The Municipality, accordingly, hereby accepts and adopts the Solid Waste Management Study prepared by the county as the ten-year plan for solid waste management required by the Act.
- F. The county is hereby authorized to submit the plan to the Department of Environmental Protection for the final approval on behalf of the Municipality.

§ 158-25. When effective.

This article shall become effective immediately. Notwithstanding the foregoing, this Municipality shall have neither the right nor the obligation to dispose of its municipal solid waste at the plant which is contemplated under this article until said plant is constructed and fully operational.

ARTICLE IV
Holding Tanks
[Adopted 10-4-2010 by Ord. No. 186]

§ 158-26. Purpose.

The purpose of this article is to establish procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage, whether from residential or commercial uses. It is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this municipality.

§ 158-27. Definitions.

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this article shall be as follows:

AGENCY — Council members of the Borough of Chester Heights, Delaware County, Pennsylvania.

HOLDING TANK — A watertight receptacle, whether permanent or temporary, which receives and retains sewage conveyed by a water-carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.

IMPROVED PROPERTY — Any property within the Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or

animals and from which structure sewage shall or may be discharged.

MUNICIPALITY — The Borough of Chester Heights, Delaware County, Pennsylvania.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any property located in the Borough.

PERSON — Any individual, partnership, company, association, corporation or other group or entity.

SEWAGE — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation or any substance which constitutes pollution under the Clean Stream Law (35 P.S. §§ 691.1 through 691.1001).

§ 158-28. Rights and privileges granted.

The Agency is hereby authorized and empowered to undertake within the Borough the control and methods of holding tank use, sewage disposal and sewage collection and transportation thereof.

§ 158-29. Authorization to adopt rules and regulations.

The Agency is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purposes herein.

§ 158-30. Rules and regulations to conform with applicable law.

All such rules and regulations adopted by the Agency shall be in conformity with the provisions herein, all other ordinances of the Borough, and all applicable laws and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

§ 158-31. Rates and charges.

The Agency shall have the right and power to fix, alter, charge and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

§ 158-32. Exclusiveness of rights and privileges.

- A. The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Agency, and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.
- B. The Agency will receive, review and retain pumping receipts from permitted holding tanks.
- C. The Agency will complete and retain annual inspection reports for each permitted holding tank.

- D. A Borough operating permit for the utilization of holding tanks within the Borough for the collection of sewage issued after the effective date hereof shall expire one year from the date of issuance and shall not be renewable except at the discretion of the Borough, upon its review, for such additional period of time as shall be deemed appropriate by the Borough. The annual Borough operating permit fee for a holding tank shall be \$100.

§ 158-33. Duties of improved property owner.

The owner of an improved property that utilizes a holding tank shall:

- A. Maintain the holding tank in conformance with this or any ordinance of this Borough, the provisions of any applicable law, and the rules and regulations of the Agency and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit only the Agency or its agent to inspect holding tanks on an annual basis.
- C. Permit only a licensed hauler to collect, transport, and dispose of the contents therein. An agreement shall be required between the owner and the licensed hauler outlining responsibilities for each in accordance with PA DEP rules and regulations.
- D. Provide proof to the Borough that the hauler and the dumping site are both licensed by DEP or other appropriate governmental agency.
- E. Provide the Borough through its sewage enforcement officer with receipts indicating that the holding tank has been pumped on a regular basis.
- F. Calculate average daily flow rates (gallons per day) quarterly to ensure proper tank capacity remains in place. Additional capacity, constructed at the owner's expense, may be required by the Borough if the average daily flow exceeds the original estimate by more than 25% for two consecutive quarters.
- G. Fill any holding tank which has remained unused for a period of four consecutive years with dirt or similar material.
- H. Deposit the sum of \$400 for each 1,000 gallons of holding tank capacity, or part thereof, with the Borough, to be held by the Borough in a separate Borough account, to assure reimbursement to the Borough of the costs of collecting, transporting and disposing of the contents of the holding tank or repairing or correcting malfunctions of the holding tank or ameliorating health hazards caused by the utilization of the holding tank, and the Borough shall have the right to withdraw funds from the account for such purposes without any specific consent of the owner. If the cost of collecting, transporting and disposing of the contents of the holding tank four times exceeds \$400 per 1,000 gallons, then the owner shall deposit such additional sum in said account. In the event it becomes necessary for the Borough to draw on the account for the purposes set forth herein, the owner shall replenish the account immediately upon request of the Borough so that the balance required herein is maintained at all times. Failure of the owner to comply with the requirements of this subsection shall be grounds for immediate revocation of the holding tank permit.
- I. Discontinue the use of such holding tank, if a permit for its use has been issued pursuant to this article and rules and regulations adopted hereunder, within one year from the date of issuance of the permit, and begin using a sewage collection and disposal system which has

been approved for permanent use in place of such holding tank, unless the permit has been renewed by the Borough pursuant to § 158-32D above.

§ 158-34. Term of permit; notice of permitted tank.

Any permit for the use of a holding tank in the Borough issued by authority of the Borough pursuant to this article or any rules and regulations adopted hereunder shall be valid for only one year and shall not be renewable, except as set forth above in § 158-32D. Any person who sells, transfers or conveys an improved property in the Borough which utilizes a permitted holding tank for collection and disposal of sewage shall give written notice to the purchaser or transferee thereof that the permit for the holding tank shall expire one year from the date of issuance thereof and shall not be renewable and shall furnish a true and accurate copy of the holding tank permit to the new owner.

§ 158-35. All other means to collect sewage to be considered first.

No permit for the use of a holding tank in the Borough shall be issued, whether pursuant to this article, any rules and regulations adopted hereunder, or otherwise, unless all other possible means of collecting and disposing of sewage at the property in question have been considered and found to be unusable.

§ 158-36. Violations and penalties.

Any person who violates any provisions of § 158-33 shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than \$500 and not more than \$5,000 and in default of said fine and costs to undergo imprisonment in the county prison for a period not in excess of 90 days.

§ 158-37. Abatement of nuisances.

In addition to any other remedies provided in this article, any violation of § 158-33 above shall constitute a nuisance and shall be abated by the municipality or the Agency by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.