

## **Chapter 173**

### **SOLID WASTE**

#### **ARTICLE I** **Collection and Disposal**

- § 173-1. Purpose.
- § 173-2. Definitions and word usage.
- § 173-3. Refuse disposal.
- § 173-4. Separation and collection.
- § 173-5. Borough licensing for refuse collection contractor's license.
- § 173-6. Reporting requirements of licensed refuse collection contractors.
- § 173-7. Collection by unauthorized persons.
- § 173-8. Violations and penalties; liability; enforcement.

#### **ARTICLE II** **Dumpsters**

- § 173-9. Definitions.
- § 173-10. Permit required.
- § 173-11. Placement and use regulations.
- § 173-12. Placement on private property.
- § 173-13. Issuance of and application for permits.
- § 173-14. Insurance.
- § 173-15. Permit fees.
- § 173-16. Revocation of permit.
- § 173-17. Violations and penalties.

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

#### **GENERAL REFERENCES**

Dumping and accumulation — See Ch. 153, Art. I.

#### **ARTICLE I** **Collection and Disposal**

**[Adopted 11-17-1998 by Ord. No. 98-10<sup>1</sup> (Part 5, Ch. 2, Art. A, of the 1975 Code of Ordinances)]**

##### **§ 173-1. Purpose.**

- A. Planning and providing for municipal waste disposal is difficult and expensive. Landfills and other disposal facilities can have substantial impacts on the environment. Therefore, reduction of the amount of municipal waste and conservation of recyclable materials is an important public objective.
- B. Borough collection of identified recyclable materials, from Borough residences, coupled with recycling by commercial properties, will serve the general public interest by

---

1. Editor's Note: The veto on this article was overridden on 12-15-1998, considered the enactment date.

reducing the volume of municipal waste which must be disposed, reducing disposal costs and preserving valuable natural resources.

**§ 173-2. Definitions and word usage.**

- A. The following words, when used in this article, shall have the meanings identified in the section, unless the context clearly indicates otherwise:

**ASHES** — The residue resulting from the burning of wood, coal, coke or other combustible material.

**BOROUGH COLLECTION PROPERTIES** — The premises at which the Borough will collect refuse generated by permitted (under the Zoning Ordinance) use(s) of the premises. Borough collection properties include only residential dwelling units which are not part of a mixed use or in a building or on a lot or premises with six or fewer dwelling units.

**BULK CONTAINER** — A dumpster or similar refuse container designed to be emptied by machine and/or truck-mounted lifting equipment.

**BULKY WASTE** — All items that are of a size such that they cannot be placed in a standard-size municipal waste container. Bulky waste includes items such as furniture and appliances. Bulky waste does not include construction debris, hazardous materials, automotive parts, tires or plant waste.

**CONSTRUCTION DEBRIS** — Customary, nonhazardous waste building materials and associated packing generated by activities involving construction, remodeling, repair or demolition operations.

**GARBAGE** — All animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of foods.

**HAZARDOUS WASTE** — Any waste which contains any substance, material, chemical, compound or mixture, the use or disposal of which is restricted by law or regulation, whether federal, state, county or municipal; such waste includes but is not limited to solid waste that is especially harmful or potentially harmful to public health, as defined in the Pennsylvania Solid Waste Management Act (35 P.S. § 6018.101 et seq.), and any pollutant, contaminant, toxic or hazardous waste, any dangerous, potentially dangerous, noxious or toxic substance, flammable, explosive, radioactive material, medical waste, urea formaldehyde, foam insulation, asbestos, PCB's, or any other substance the removal of which is required or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county or municipal laws or regulations, now or at any time hereafter in effect, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C.

§ 2601 et seq.) and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), as such laws have been or will be amended and supplemented.

**LICENSED REFUSE COLLECTION CONTRACTOR** — A commercial refuse collection contractor licensed as such by the Borough.

**MIXED USE** — Any use of a lot or premises which includes one or more residential dwelling unit(s) and any nonresidential use, as such uses are defined by the Zoning Ordinance.

**PLANT WASTE** — Leaves, garden residue, grass, shrubbery and tree trimmings and similar plant materials grown at the premises.

**PREMISES** — A lot, parcel or parcels used as a single principal use or enterprise, a condominium or apartment, including all improvements.

**PRIVATE COLLECTION PROPERTIES** — All properties, premises and uses which are not Borough collection properties. Private collection properties include, but are not limited to, all properties used for industrial, commercial, restaurant, agricultural, institutional, community, religious and philanthropic, rooming house, boarding house, hotel, apartment buildings or developments and condominiums with six or more dwelling units [as all those uses are commonly defined and/or as they are defined by the Zoning Ordinance, all nonresidential and mixed uses as well as any residential building or development (e.g., apartment building or condominium development) with more than six dwelling units on the premises].

**RECYCLABLE GLASS** — Empty food and drink bottles and jars with their lids removed and rinsed (all colors-amber, green and clear). **[Amended 4-17-2007 by Ord. No. 2007-3]**

**RECYCLABLE METAL CONTAINERS** — Empty ferrous metal and aluminum food and beverage containers.

**RECYCLABLE PAPER** — Mixed paper, including cardboard, paper bags, magazines, all mail, phone books, home, office and school paper; but not soiled or saturated paper. **[Amended 4-17-2007 by Ord. No. 2007-3]**

**RECYCLABLE PLASTICS** — Commingled plastic beverage containers, including PET/HDPE, narrow-necked bottles and jars only, rinsed and caps removed. **[Amended 4-17-2007 by Ord. No. 2007-3]**

**RECYCLABLES** — Recyclable glass, paper and metal.

**REFUSE** — All solid waste, except body waste, and shall include garbage, ashes and rubbish and all residential waste classified as municipal waste under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1998; 53 P.S. § 4000.101 et seq.).

**REFUSE CONTAINER** — Any container used to contain refuse placed at the street curb for collection, such as returnable metal and plastic containers and plastic bags.

**RUBBISH** — Includes glass, metal, paper, plant waste, wood or nonputrescible solid wastes, but not recyclables.

**ZONING ORDINANCE** — The Borough of Malvern Zoning Ordinance as that ordinance may be amended from time to time.<sup>2</sup>

- B. All land and property uses, including but not limited to the following, shall be defined according to the Zoning Ordinance:
- (1) Building.
  - (2) Dwelling.
  - (3) Dwelling unit.
  - (4) Lot.

**§ 173-3. Refuse disposal.**

- A. It shall be unlawful for any person to deposit, dump, burn, bury, spill, throw or place any refuse within the Borough, except in compliance with all applicable regulations.
- B. No person shall burn or cause to be burned any paper, boxes, rubbish, leaves, sticks or other wood or any material within the Borough except in compliance with all applicable regulations. The entire Borough shall be and is hereby constituted as fire limits. This provision shall not apply to outside facilities for cooking or to incinerators which have been approved, in writing, by the Fire Marshal and which comply with all other applicable regulations. A permit for outside burning may be issued, for unusual conditions, upon application to the Borough. Other than for construction sites, such permits shall be valid for 24 hours only. The Borough Council may, from time to time, by written resolution, permit burning of leaves and sticks.

**§ 173-4. Separation and collection.**

- A. Regulations for Borough collection properties.
- (1) Placement of waste for Borough collection. Refuse containers shall be placed, for collection, at the curb of the street so as to be readily accessible to the authorized collector and not to block use of any sidewalk, create any safety hazard or violate any applicable regulations. The street along which refuse is so placed must be a Borough public street or a private street approved for such collection by the Borough. The Borough will not collect refuse from any dumpster or bulk container.
  - (2) Collection schedule. Curbside collections, for Borough collection properties, shall be conducted on Tuesday and Friday of each week. The Tuesday collection will

---

2. Editor's Note: See Ch. 220, Zoning.

include separated recyclables. The Friday collection will be limited to refuse. This schedule may be changed by Borough Council resolution.

- (3) The maximum allowable number of refuse containers to be placed for collection on any one collection day shall be three returnable metal or plastic containers per dwelling unit or five disposable plastic bags, plus one bale of paper or plant waste (provided that no such bale shall exceed 30 inches in length). The combination of returnable containers and plastic bags may not exceed five.
- (4) Items not to be presented for Borough collection. No person shall place, for weekly scheduled Borough collection, any bulky waste, construction debris, hazardous waste, waste resulting from manufacturing, industrial or commercial activity at the premises, waste generated off the premises or any item that cannot be readily carried by one person or would result in a safety or health hazard to the refuse collector.
- (5) Special bulky waste collection. The Borough may schedule special bulky waste collections. Such collection dates, terms and conditions will be publicized in the local newspaper and on the community bulletin board.
- (6) All owners, occupants and tenants of Borough collection properties shall separate recyclables for collection.

B. Regulations for private collection properties.

- (1) The owners of private collection properties shall contract, at their sole cost and expense, for the separate collection of refuse, recyclables and, if required by the Borough, corrugated paper. Such contracts shall only be with a licensed refuse collection contractor.
- (2) All owners, occupants or tenants of private collection properties shall separate recyclables and, if required by the Borough, corrugated paper, from refuse presented for collection.
- (3) Refuse presented at the street curb for private collection must be in a refuse container or securely bailed and must be collected and removed within 20 hours.

C. Regulations for all properties.

- (1) Owner's duty to require and assist recycling. The owners of rental properties shall establish and enforce a waste collection system for tenants that will result in the requisite separation of recyclables for collection by the refuse collection contractor. Such a system should involve suitable containers for the recyclables and written instructions to tenants identifying the materials to be recycled.
- (2) Duty of nonresidential establishments to require and assist recycling. Nonresidential establishments shall develop, implement, enforce and maintain a waste collection system for employees and others at the premises so that recyclables will be separated as required for collection by the refuse collection contractor. Such a system should involve provision of suitable containers for recyclables and instructing employees and others as to recycling requirements.

- (3) Recyclable paper shall be placed and presented for collection in bundles secured with string or twine or placed in common-type paper bags, but not plastic bags, so that the bundles can be handled and loaded efficiently and without breaking or separating.
- (4) Recyclable glass shall be clean, rinsed, free of all caps, cap rings, styrofoam labels, food, contents, debris and other material (except paper labels) and placed and presented for collection in a container provided by the Borough and used for that sole purpose, which container shall not be filled so that its weight exceeds 50 pounds.
- (5) Recyclable metal containers shall be clean, rinsed, free of food, contents, debris and other material (except paper labels) and placed and presented for collection in a container, which container shall not be filled so that its weight exceeds 50 pounds.

**§ 173-5. Borough licensing for refuse collection contractor's license.**

- A. License always required. Only a licensed refuse collection contractor may contract to and/or collect refuse within the Borough. No one shall contract for the collection of refuse from a private collection property except with a licensed refuse collection contractor. Application for a refuse collection license shall be made at the Borough Hall, on a form prescribed by the Borough, and shall be valid for one year unless otherwise noted on the license. A licensing fee may be established, from time to time, by Borough Council resolution. Licenses are not transferable from one contractor to another except with prior written approval of the Borough.
- B. License applications. Applicants for a refuse collection license ("license") must furnish the following information:
  - (1) The location, addresses, hours of business and telephone numbers of the licensee's business office(s) to receive calls, visits or correspondence from persons in the Borough who receive collections service. Any changes in this information, after the license has been issued, shall be reported within 10 days to the Borough.
  - (2) Proof of insurance. Certificate(s) of insurance evidencing the coverages required above shall be filed with the Borough prior to the furnishing of services under this license. Such certificate(s) shall provide that the insured will give the Borough not less than 10 days' advance notice of any changes in, or cancellation of, coverage. The following insurance coverage is required:
    - (a) Workers compensation insurance as required by law. [Amended 4-17-2007 by Ord. No. 2007-3]
    - (b) Comprehensive general liability, bodily injury and property damage, including contractual liability, in a combined single limit of at least \$3,000,000. [Amended 4-17-2007 by Ord. No. 2007-3]

- (c) Comprehensive vehicle liability, bodily injury and property damage in a combined single limit of at least \$3,000,000. **[Amended 4-17-2007 by Ord. No. 2007-3]**
- (3) Proof of Pennsylvania Department of Environmental Protection approval of disposal site(s) for all refuse to be collected pursuant to the license.

- (4) Any other relevant information which the Borough deems necessary for the issuance of a license.
- C. All vehicles to be used to collect and haul refuse pursuant to the license shall:
  - (1) Comply with all applicable federal, state and local regulations;
  - (2) Have enclosed bodies or, with respect to those used for bulky pickup, have the body covered with a tarpaulin or canvas or other suitable cover to prevent the loss of the contents during transport;
  - (3) Have watertight bodies of easily cleanable construction and shall be kept clean to prevent odor and propagation or attraction of vectors; and
  - (4) Shall be in good repair and safe condition at all times.
- D. Failure of a licensed refuse collection contractor to comply with the provisions of this article shall result in the revocation of the license.

**§ 173-6. Reporting requirements of licensed refuse collection contractors.**

- A. Each licensed refuse collection contractor shall submit to the Borough Code Enforcement Officer, on or before January 15 of each year, an annual report, which shall contain the following information for the previous year:
  - (1) A list of the Borough properties for which the licensee has been engaged to collect refuse, together with the address of each such property and name of business and property owner.
  - (2) The total weight of refuse and the total weight of each recyclable collected in the Borough by the licensee.
- B. Failure to file such report, as required, shall subject the licensee to revocation or nonrenewal of the license as well as penalties.

**§ 173-7. Collection by unauthorized persons.**

The Borough or its assigns shall be entitled to have all recyclables placed at the curb or other place designated by the Borough, for Borough collection. No person, other than a licensed refuse collection contractor, shall collect or pick up or cause to be collected or picked up any recyclable placed at the curb or any other designated place for Borough collection. If an unauthorized person collects recyclables from more than one Borough collection property that person shall have committed a separate violation for each such property. Each such violation shall be the basis for a separate penalty.



**§ 173-8. Violations and penalties; liability; enforcement.**

- A. Any person who violates or fails to comply with or cause a violation of any provision of this article, upon conviction thereof in a summary proceeding, shall be punishable by a fine of not less than \$100 nor more than \$600 for each violation.
- B. The property owner is jointly and severally liable with the tenant and/or occupant for any violation.
- C. Each day's continuance of a violation of this article shall constitute a separate offense for which a separate penalty may be imposed.
- D. The Borough Code Enforcement Officer is authorized to enforce the terms of this article by appropriate proceedings in law or equity.