

**WEST WHITELAND TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 264, "SOLID WASTE AND RECYCLING", OF THE WEST WHITELAND TOWNSHIP CODE OF ORDINANCES TO REFLECT CHANGES IN THE PROGRAM .

BE IT HEREBY ENACTED AND ORDAINED by the Board of Supervisors of West Whiteland Township, Chester County, Commonwealth of Pennsylvania as follows:

Section 1. Renames Chapter 264 "Solid Waste and Recycling" as "Solid Waste – Trash and Recycling".

Section 2. Revises Section 264-2 "Definitions" to remove all definitions in their entirety and replaces them with the following definitions:

ACT 97

The Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, as amended, 35 P.S. § 6018.101 et seq.

ACT 101

The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101, 53 P.S. § 4000.101 et seq.

Act 140

Municipal Waste Planning, Recycling and Waste Reduction Act – Sunset for Recycling Fee and for Performance Grants for Municipal Recycling Programs, Act of Nov. 9, 2006, P.L. 1347, No. 140 Cl. 27, Session of 2006, No. 2006-140

BULK WASTE

Large items of refuse require collection in other than conventional compactor refuse collection vehicles. Bulk waste, as determined by the waste hauler, shall not include hazardous waste within the meaning of Act 97, building and/or construction materials, automotive parts and tires, cans containing paint or other free liquids, refrigerators, air conditioners, chillers or freezers.

BURNING

The act of consuming by fire; to flame, char, scorch or blaze. As used in this chapter, "smoldering" shall have the same meaning as burning and any smoldering shall be deemed a burning. Burning of trash or refuse materials is prohibited per Chapter 118, "Burning, Open" of the West Whiteland Township Code of Ordinances.

COMMERCIAL ESTABLISHMENT

All properties and/or establishments used for commercial or industrial purposes.

DISPOSAL BAG or TOWNSHIP DISPOSAL BAG

The plastic bag used for the collection of municipal waste in the Township which shall bear an identification mark established by the Township. This bag shall be the only bag used in the Township's Pay-As-You-Throw Program.

INSTITUTIONAL ESTABLISHMENT

Any property and/or establishment engaged in service including, but not limited to, hospitals, nursing homes, orphanages, schools and universities.

MULTI-UNIT RESIDENTIAL PROPERTY

Any occupied dwelling having five or more units per structure which does not have a separate entrance for each unit onto a public or approved private street and does not have separate facilities for each unit for municipal waste collection. Dwelling units above or attached to a commercial use are included in this category.

MUNICIPAL ESTABLISHMENT

Any facility or building owned or occupied by a local government or county government, local government or county government authority, state government or agency or federal government or agency.

MUNICIPAL WASTE

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or gaseous material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in Act 97 from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

MUNICIPAL WASTE COLLECTOR

Any person collecting or transporting municipal waste or recyclable materials for owners or occupants of property in West Whiteland Township, and any business or institution within West Whiteland Township which generates municipal waste or recyclable materials and uses its own employees and equipment for the collection and transportation of the municipal waste or recyclable materials.

MUNICIPAL WASTE CONTRACTOR

The contractor of West Whiteland Township pursuant to Section 304(c) of Act 101 to carry out its duties for recycling, transportation, collection and storage of municipal waste and source-separated recyclable materials in a manner that is consistent with Act 97 and Act 101 and the regulations promulgated pursuant

thereto. Any such person shall be jointly and severally responsible with the Township when carrying out its duties for transportation, collection or storage activity.

OWNER

Any person vested with ownership, legal or equitable, sole or partial, of any property located within the Township. The owners of a property are those persons listed in the records of the Township.

PAY-AS-YOU-THROW (PAYT) PROGRAM

Township Residential households pay an annual fee (as per the annual fee resolution) to the Township for curbside pick-up of trash and recycling. PAYT participants buy special West Whiteland Township trash bags based on their use of the program. All non-recyclable items must be placed in these bags to be collected. Recyclable items go in sturdy-sided bins or totes.

PERSON

Any individual, partnership, association, corporation, institution, cooperative enterprise, trust, municipal authority, federal government or agency, commonwealth institution or agency, or any other legal entity whatsoever which is recognized by law as a subject of rights and duties. In any provision of this chapter prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or any other legal entity having officers and directors.

PROPERTY

Any lot or parcel of ground within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use.

RECYCLABLE MATERIALS

Those materials specified by the Township for separation from municipal waste at the point of origin for the purpose of recycling and for collection in accordance with this chapter and recycling regulations which may be promulgated from time to time. The list of "recyclable materials" may be changed from time to time as deemed necessary.

RESIDENCE

Any occupied single or multifamily structure having four or less units per structure. Condominiums, townhouses and like dwellings having separate entrances for each unit onto a public or approved private street and which have individual facilities for each unit for municipal waste collection are included in this category.

RESIDENT

Any person which owns, leases or occupies a property located in West Whiteland Township used as a residence.

TRASH/RECYCLING FEE

An annual fee imposed and billed by the Township to all owners of residences which, by authority of this Ordinance, participate in the PAYT program. The owner of each participating residence is responsible for paying the fee and ensuring compliance with the PAYT program.

YARD DEBRIS

Leaves, garden residues, shrubbery and tree trimmings, branches, and similar materials, but not including grass clippings.

Section 3. Revises Section 264-3, "Separation program established" to replace the phrase "leaf waste" with the phrase "yard debris".

Section 4. Revises Paragraph A, "Recyclable materials" of Section 264-4 "Residential recycling" to delete the following sentence:

Such containers shall be provided by the Township pursuant to rules and regulations promulgated hereunder.

Section 5. Revises Paragraph B, "Residential collection" of Section 264-4 "Residential recycling" to read as follows:

Residential collection. The collection of allowable recyclable materials from all residences within the Township shall be made by a municipal waste contractor at a minimum of once per week.

Section 6. Revises the first sentence of Paragraph C, "Multiunit residential properties" of Section 264-4 "Residential recycling" to read as follows:

An owner, landlord or agent of an owner or landlord of multiunit residential properties or multiunit rental properties with four or more units shall comply with their responsibilities under this chapter by establishing a collection system for recyclable materials at each property and pick-up by a waste collector.

Section 7. Revises Paragraph D, "Townhouse properties" to read as follows:

The residents of the townhouse communities listed on the annual solid waste trash and recycling fee resolution are exempt from the requirement of collection of recyclable materials by the municipal waste contractor pursuant to § 264-12D of this chapter, regarding the collection of municipal waste by the municipal waste collector. These communities provide trash/recycling services via their respective homeowners' associations. All other communities, other than those sited as multiunit residential properties in point C above must participate in the PAYT program.

Section 8. Renames Section 264-5, “Yard Debris” and replaces the phrase “leaf waste” with the phrase “yard debris” in sub-paragraphs A, B, C and D.

Section 9. Revises Section 264-7, “Commercial, institutional and municipal recycling” to read as follows:

All persons occupying commercial, institutional, non-PAYT residential areas, and municipal establishments within West Whiteland Township shall separate recyclable materials as may be changed, from time to time, by resolution of the Board of Supervisors of West Whiteland Township, generated at such establishments and from community activities, store the materials until collection by a municipal waste collector and annually provide written documentation and certification to West Whiteland Township of the total number of tons of materials and the types of materials recycled. Such persons may comply with the reporting requirements hereunder by requiring their municipal waste collector to provide such documentation and certification directly to the Township.

Section 10. Revises Paragraph C of Section 264-11, “Prohibited acts” to read as follows:

No person shall place disposal bags for municipal waste or containers for recyclable materials at the curb or in the front yard of any lot, except in the period beginning at 6:00 p.m., prevailing time, on the day prior to a scheduled collection, and ending at 12:00 midnight on the day of a collection. "Front yard" shall mean the area between the street line and the first building on the lot.

Section 11. Revises Section 264-12, “Residential collection and disposal” to read as follows:

- A. All municipal waste generated at residences throughout the Township shall be collected by the municipal waste contractor, unless exempted by this ordinance.
- B. Collection of municipal waste shall be made by the municipal waste contractor at a minimum of once per week, or at such frequency as shall be set forth in rules and regulations adopted hereunder.
- C. All municipal waste shall be placed in the disposal bags sold by the Township through local retailers for such use. The municipal waste contractor will only collect municipal waste contained in the Township disposal bags. This bag shall not be filled so as to weigh more than 40 pounds and shall be securely tied or sealed at the time of collection. The Township disposal bags are available at local commercial establishments throughout the Township as set forth in § 264-13 of this chapter.
- D. Townhouse properties. The residents of townhouse communities as indicated in section 264-4, acting by and through a duly constituted homeowners' association, are exempted from the requirements of this section regarding the

collection of municipal waste by the municipal waste contractor; provided, that the homeowners' association contracts with a waste collector for the collection and disposal of municipal waste, in full compliance with this chapter and Act 97, establishes and enforces a curbside collection system for source-separated recyclable materials and yard waste by a waste collector, in full compliance with this chapter and Act 101, and provides to the Township, or designee, on an annual basis written documentation and certification of the total number of tons of materials, the types of materials recycled and total tons of waste.

Section 12. Revises Section 264-13, "Disposal bag fees" to read as follows:

The Township disposal bags are available at various local commercial establishments at such fees as shall be from time to time established by resolution of the Board of Supervisors, and as may be from time to time amended. Authorization for sales by commercial establishments shall be by the Township Manager.

Section 13. Removes Section 264-14, "Municipal waste collectors' licensing requirements" in its entirety.

Section 14. Renumbers Section 264-15, "Rules and regulations" as Section 264-14.

Section 15. Renumbers Section 264-16, "Violations and penalties" as Section 264-15

Section 16. Removes Section 267-17, "Right of Entry" in its entirety.

Section 17. Adds new Section 267-17, "Inspections" to read as follows:

West Whiteland Township and its agents and employees shall have access to and may open any container, where municipal waste or recyclable materials placed out for collection for the purpose of making such investigation or inspection as may be necessary to ascertain the compliance or noncompliance by any person with the provisions of this chapter and the rules and regulations promulgated hereunder. In connection with such inspection or investigation, samples may be taken.

Section 18. Renames Section 267-19, "Residential recycling fee" as "Residential trash and recycling fee".

Section 19. Revises Section 264-20, "Rate" to read as follows:

The recycling fee shall be set by the township's annual fee resolution per residence per twelve-month period. The Board of Supervisors may amend the recycling fee from time to time by resolution.

Section 20. Revises Section 264-21, "Time and methods of payments" to read as follows:

A. Annual billings for the recycling fee for each twelve-month period shall be made

in June of each year. The bills for the recycling fee under § 264-20 for the twelve-month period during which a property is initially occupied will be prorated on the basis of the applicable rate. All bills shall be due and payable in full within 30 days of their respective billing dates. Any bills not paid in full within 30 days of issuance will be assessed an additional late fee in the amount of ten percent (10%) of the past due amount. The Township offers an installment payment option, with the annual amount payable over three equal payments.

- B. Vendors will be billed for the purchase of West Whiteland Township trash bags. All bills shall be due and payable in full within 30 days of their respective billing dates. Any bills not paid in full within 30 days of issuance will be assessed an additional late fee in the amount of ten percent (10%) of the past due amount.

Section 21. Revises Paragraphs B and C of Section 264-22, “Penalties for delinquent payments and liens” to read as follows:

- B Failure to receive bills will not be considered an excuse for nonpayment nor permit an extension of the period during which bills are payable at face value. Bills are sent to the parcel address. An owner may provide the Township with an alternative mailing address and a duplicate bill will be sent there as well as the parcel address.
- C. All trash and recycling fees, together with all interest and penalties thereon, not paid on or before 90 days from the date of each bill shall be deemed to be delinquent. All delinquent trash and recycling fees and all penalties thereon shall be a lien against such property in the office of the Prothonotary of Chester County and shall be collected in the manner provided by law for the filing and collection of such liens.

Section 22. Revises Paragraph C of Section 264-23, “Segregation of revenue” to read as follows:

Said funds shall be used only for municipal waste collection and recycling purposes and the support of the municipal waste and recycling program.

Section 23. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts, or provisions of this Ordinance.

Section 24. Effective Date. This ordinance shall be effective five (5) days from the date of enactment.

Enacted and Ordained this **26th** day of **January, 2022**.

**WEST WHITELAND TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST

Pam Gural-Bear
Interim Township Manager

Rajesh Kumbhardare, Chair

Theresa Santalucia, Vice Chair

Brian Dunn, Supervisor