

Jody Miller

ACT - 101

ORDINANCE NO. ~~95-04~~ 95-04

MUNICIPAL SOLID WASTE ORDINANCE

Borough of West Middletown

WASHINGTON COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF West Middletown, WASHINGTON COUNTY, PENNSYLVANIA, PROHIBITING THE ACCUMULATION, BURYING, AND BURNING OF GARBAGE AND OTHER REFUSE MATERIALS UPON ANY PRIVATE PROPERTY IN SAID MUNICIPALITY; REQUIRING THAT ALL GARBAGE, RUBBISH, AND OTHER REFUSE BE CONVEYED TO APPROVED WASTE TRANSPORTATION, AND PROCESSING AND/OR DISPOSAL FACILITIES PERMITTED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OR OTHER REGULATORY AGENCIES; REGULATING THE STORAGE AND REMOVAL OF GARBAGE, RUBBISH, AND OTHER REFUSE MATERIALS; PROVIDING FOR THE COLLECTION OF GARBAGE, RUBBISH, AND OTHER REFUSE MATERIALS ONLY BY LICENSED COLLECTORS; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, the Board of County Commissioners have adopted an approved Municipal Waste Management Plan for Washington County in accordance with the requirements of Section 501 of the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101), and said Plan has been duly ratified by the municipalities of Washington County; and

WHEREAS, pursuant to the authority vested to the Municipality by the Pennsylvania Solid Waste Management of 1980 (Act 97) and Act 101, the Borough of West Middletown desires to enact an Ordinance to regulate the storage, collection, and disposal of rubbish, refuse, and garbage within the municipality in order to implement such Plan.

NOW, THEREFORE, the Borough of West Middletown, Washington County, Pennsylvania hereby enacts and ordains as follows:

SECTION I: SHORT TITLE

This Ordinance shall be known and referred to as the "Municipal Solid Waste Ordinance."

SECTION II: DEFINITIONS

The following words and phrases as used in this Ordinance shall have the meaning ascribed herein, unless the context clearly indicates a different meaning:

Act 97 --- The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980).

Act 101 --- The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101).

Bulky Waste --- Shall mean large items of solid waste including, but not limited to, appliances, furniture, large auto parts, trees, branches or stumps which may require special handling due to size, shape or weight.

Collector or Waste Hauler --- Shall mean any person, firm, partnership, corporation or public agency who is engaged in the collection and/or transportation of municipal waste.

Commercial Establishment --- Means any establishment engaged in nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.

Container --- A portable device in which waste is held temporarily for storage or transportation.

County --- Shall mean the County of Washington or the Washington County Board of County Commissioners.

Department or DER --- Shall mean the Pennsylvania Department of Environmental Resources (DER).

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 enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

Domestic Waste or Household Waste --- Means solid waste, comprised of garbage and rubbish, which normally originates in the residential private household or apartment house.

Garbage --- Means any solid waste derived from animal, grain, fruit, or vegetable matter that is capable of being decomposed by microorganisms with sufficient rapidity to cause such nuisances as odors, gases, or vectors.

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.

Licensed Collector or Licensed Waste Hauler --- Shall mean any municipal waste collector or hauler possessing a current, valid Municipal License issued by the Borough of West Middletown pursuant to Municipal Ordinance No. _____.

Municipal Waste --- Means any 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 any sludge not meeting the definition of residual or hazardous waste under Act 97 from a municipal, commercial or institutional waste supply treatment plant, wastewater treatment plant, or air pollution control facility. The term does not include source-separated recyclable materials.

Municipality --- Shall mean the Borough of West Middletown, Washington County, Pennsylvania.

Person --- Means any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or agency, State institution and agency, or any other legal entity which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance 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.

Rubbish --- Means all non-putrescible municipal waste except garbage and other decomposable matter. This category includes but is not limited to ashes, bedding, cardboard, cans, crockery, glass, paper, wood and yard cleanings.

Salvaging --- The controlled removal or recycling of material from a solid waste processing or disposal facility.

Scavenging --- Means the unauthorized and uncontrolled removal of material placed for collection or from a solid waste processing or disposal facility.

Solid Waste --- Means any waste, including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

Storage --- Means the containment of any 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 waste in excess of one year shall constitute disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

Transportation --- Means the off-site removal of any solid waste at any time after generation.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

Section III: PROHIBITED ACTIVITIES

1. It shall be unlawful for any person to accumulate or permit to accumulate on any public or private property within the Municipality, any garbage, rubbish, bulky waste, or any other municipal or residual waste except in accordance with all applicable Department Rules and Regulations adopted pursuant to Act 97 and Act 101.
2. It shall be unlawful for any person to burn any solid waste within the Municipality except in accordance with all applicable Department Rules and Regulations adopted pursuant to Act 97 and Act 101, all applicable Department of Environmental Resources Bureau of Air Quality Regulations and all local Borough ordinances and/or regulations.
3. It shall be unlawful for any person to process and/or dispose any solid waste in the Municipality except in accordance with all applicable Department Rules and Regulations adopted pursuant to Act 97 and Act 101.
4. It shall be unlawful for any person to collect, haul, transport or remove any solid waste from public or private property within the Municipality without a current, valid license to do so issued by the Borough of West Middletown.
5. It shall be unlawful for any person to scavenge any materials from any solid waste that is stored or deposited for collection within the Municipality without prior written approval from the municipality.
6. It shall be unlawful for any person to salvage or reclaim any solid wastes within the Municipality except at an approved and permitted resource recovery facility under any applicable Department Rules and Regulations adopted pursuant to Act 97 and Act 101.

SECTION IV: STANDARDS FOR STORAGE OF SOLID WASTE

1. The storage of all solid waste shall be practiced so as to prevent the attraction, harborage or breeding of insects or rodents, and to eliminate conditions harmful to public health or which create safety hazards, odors, unsightliness or public nuisances.
2. Any person producing municipal waste shall provide a sufficient number of approved containers to store all waste materials generated during periods between regularly scheduled collections, and shall place and store all waste materials therein.

3. Any person storing municipal waste for collection shall comply with the minimum standards for the storage of municipal waste set forth in the Department's Title 25, Chapter 285, Subchapter A Regulations for the Storage of Municipal Waste.

SECTION V: STANDARDS AND REGULATIONS FOR COLLECTION

1. All households, homeowners, commercial, industrial and institutional establishments within the Municipality shall utilize the services of a Licensed Collector for disposal of their domestic waste or household waste.
2. All Licensed Collectors and Waste Haulers shall comply with the minimum standards for collection and transportation of municipal waste set forth in the Department's Title 25, Chapter 285, Subchapter B Regulations for Collection and Transportation of Municipal Waste.
3. All municipal waste collected within the Municipality shall only be conveyed or transported to a transfer station, processing facility, and/or disposal site permitted by the Department of Environmental Resources, and/or other regulatory agencies pursuant to the approved Municipal Waste Management Plan for Washington County.

SECTION VI: LICENSING REQUIREMENTS

1. No person shall collect, remove, haul, or transport any solid waste upon or through any streets or alleys of the Municipality without first obtaining a license from the Borough of West Middletown pursuant to the requirements of Municipal Ordinance No. 95-03.

SECTION VII: INJUNCTION POWERS

The Municipality may petition the Court of Common Pleas, Washington County, for an injunction, either mandatory or prohibitive, to enforce any of the provisions of this Ordinance.

SECTION VIII: PENALTIES

Any person who violates any provision of this Ordinance shall, upon conviction, be guilty of a misdemeanor which is punishable by a fine of not less than \$100.00, nor more than \$600.00, or in default of payment of such fine, then by imprisonment for a period of not more than ten (10) days, or both. Each day of violation shall be considered a separate and distinct offense.

SECTION IX: SEPARABILITY

In the event that any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of such Ordinance shall not be invalidated by such action.

SECTION X: CONFLICT

Any ordinances or any part of any ordinance which conflict with this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION XI: EFFECTIVE DATE

This Ordinance shall take effect on May 28, 1995.

ENACTED AND ORDAINED into an Ordinance this the _____ day
of _____, 19 ____.

BOROUGH OF _____

By: _____
President of Council

By: _____
Mayor

ATTEST:

Secretary

(Municipal Seal)