



TITLE #: 25

Ordinance #: 02-15-13-040

Date: 02-15-2013

ORDINANCE for the HANDLING and DISPOSITION of GARBAGE, TRASH and RUBBISH

DESCRIPTION: This ordinance shall be known as the “Town of Cheswold Garbage, Trash and Rubbish Ordinance”, as it establishes standards of behavior for property owners, residents and visitors while they are within the Town of Cheswold. It shall sometimes and herein be referred to as the Garbage, Trash and Rubbish Ordinance; Garbage Ordinance or the Trash Ordinance and shall apply to and include the entire corporate limits of the Town of Cheswold, Kent County – State of Delaware.

Section 1. PURPOSE

Accumulated garbage, trash, and/or rubbish can pose the following health, safety and environmental threats to the community of the Town:

- 1.1 Fire and Explosion
- 1.2 Injury to children, playing in or around such garbage, trash and/or rubbish
- 1.3 Disease carried by mosquitoes, flies and rodents
- 1.4 Contamination of streams, rivers and lakes
- 1.5 Contamination of soil and groundwater
- 1.6 Contamination of drinking water wells
- 1.7 Damage to plant and wildlife habitats
- 1.8 Decrease in the quality of life to our community and residents

Therefore, the purpose and intent of this Ordinance is to establish, limit and remove, the health threat to humans, domestic animals, wild life and the environment, by specifying rules, standards and penalties for the improper disposal of garbage, trash and rubbish.

Section 2. APPLICABILITY

The provisions of the Garbage, Trash and Rubbish Ordinance shall apply to all persons living, visiting or passing through the corporate limits of the Town of Cheswold, whether sitting, walking or riding in or on any type of mobile conveyance or owing or renting a residential, commercial or industrial structure. Additionally it shall apply to all farm units.

Section 3. USAGE of TERMS

As used in this Ordinance, the following terms have the associated meaning:

- 3.1 **Shall** – is to be construed as mandatory.
- 3.2 **May** – is to be construed as permissive.
- 3.3 **Gender** – words importing the masculine gender shall include the feminine and neuter.

Section 4. DEFINITIONS

As used in this Ordinance, the following terms shall have the specified meaning:

- 4.1 Building Inspector** – shall mean the Town of Cheswold employee or contractor authorized by the Town Council to conduct inspections of structures for compliance with the International Building Codes requirements. In addition, such employee or contractor shall have the authority to halt construction on a work site and impose penalties, both written and monetary and monetary fees for violations, as applicable.
- 4.2 Code Enforcement Officer** – shall mean the Town of Cheswold employee or contractor authorized by the Town Council to enforce Town of Cheswold Ordinances associated with building structures and property maintenance. The Officer shall also be authorized to impose both written and monetary penalties and monetary fees for violations, as applicable.
- 4.3 Garbage** - shall mean the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- 4.4 Mobile Conveyance** –shall mean any type of vehicle including, but not exclusive to automobiles, motorcycles, buses, horses, bicycles or the like, used to transport humans, animals, or goods from place to another.
- 4.5 Occupier** – shall mean any person, public or private corporation; trust, firm; joint stock company; union; incorporated or unincorporated association; partnership; or government of a structure for purposes of residing or conducting business.
- 4.6 Owner** - shall mean any person in whom is vested the ownership and title of property, and who is the owner of record.

Owner shall also include any local, city, county, state or federal governmental entity.
- 4.7 Person** – shall mean a human being who has been born and is alive, and, where appropriate, a public or private corporation, a trust, a firm, a joint stock company, a union, an incorporated or unincorporated association, a partnership, a government or a governmental instrumentality.
- 4.8 Police Department** – shall mean the group of employees hired by the Town Council of the Town of Cheswold to maintain and enforce the laws, rules and regulations of the Town of Cheswold, Kent County, State of Delaware.
- 4.9 Premises** – shall mean a lot, or parcel of land, including the buildings or structures thereon.
- 4.10 Private Property** – shall mean land owned by a person or group and kept for their exclusive use.
-
- 4.11 Public Property** – shall mean property owned by the government or one of its agencies, divisions or entities.

Section 4. DEFINITIONS – “continued”

4.12 Property – shall mean any place, site or premises and includes any building, structure, erection, or any separate part or portion thereof, whether used as a residence, or for commercial purposes or a house of worship, or the ground itself.

4.13 Putrescible – shall mean waste liable to decay or spoil or to become putrid.

4.14 Renter – shall mean any person or persons residing or occupying a building structure approved for housing or business and for which such person or persons is not the owner of said structure and submits monetary payment to the owner for usage of the structure.

4.15 Rubbish – shall mean all wastes not subject to decay or putrefaction from all public and private establishments, commercial or industrial and residences. It shall include ashes, brush, trees and garden clippings, dirt sweepings, tin cans, glass articles and all other incombustible substances.

4.16 Structure – shall mean that which is built or constructed, including, without limitation because of enumeration,

4.16.1 buildings for any occupancy or use whatsoever,

4.16.2 fences,

4.16.3 signs,

4.16.4 billboards

4.16.5 fire escapes

4.16.6 chute escapes

4.16.7 railings

4.16.8 water tanks

4.16.9 towers

4.16.10 open grade steps

4.16.11 sidewalks or stairways

4.16.12 tents

4.16.13 parks

4.16.14 water

4.16.15 yards

4.16.16 anything erected and framed to component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

4.16 Tenant – shall mean any person or persons residing or occupying a building structure approved for housing or business whether such occupant is the lot owner or a renter or leasee of the lot or structure.

4.17 Town Council – shall mean the group of Town elected officials acting as the governing body of the Town of Cheswold as specified by the Town Charter.

Section 4. DEFINITIONS – “continued”

4.18 Waste – shall mean a collective term to describe rubbish, trash, refuse, garbage, junk and/or litter.

4.19 Water – shall mean any types of streams, lakes, rivers, or retaining ponds.

4.20 Yard – shall mean an open unoccupied space on the same lot with a building extending along the entire length of the street, or rear or interior lot line.

Section 5. DESCRIPTION of RULES for PROPER DISPOSAL of WASTE

The following shall apply as to the handling and disposition of garbage, trash and rubbish:

- 5.1** It shall be the responsibility of the lot owner to provide the occupants of the lot, whether personally occupied; rented or leased to provide containers for the proper disposal of garbage, trash and rubbish.
- 5.2** It shall be the responsibility of the lot owner to make tenants aware of these rules.
- 5.3** It shall be the responsibility of the lot occupant to place trash containers or bags either curbside, on the sidewalk or in the alley from which the collection thereof will be made.
- 5.4** Trash containers must not be larger than 96 gallons; must be in good condition with handles and no sharp edges; must have tight fitting lids, in order to keep animals out, and must not be so full that the contents spill when being handled by the collectors.
- 5.5** Trash containers must be visible and easily accessible for collectors; be placed on the curbside, and may not be placed out earlier than two, (2), hours before sunset the evening prior to collection.
- 5.6** Household garbage must be placed in sealed, leak proof bags or containers. Loose garbage will not be permitted to remain out doors.
- 5.7** Tree limbs or shrubbery to be removed on a regular trash day must be cut into four foot lengths and bundled, if applicable.
- 5.8** Garbage must be separated and placed in a different container than materials to be recycled.
- 5.9** The following types of material are examples of recycled materials:

- | | |
|---|---|
| 5.9.1 Newspapers, Brown Paper Bags | 5.9.8 Narrow-Neck Plastic Bottles |
| 5.9.2 Magazines, Catalogs | 5.9.9 Plastic Grocery Bags |
| 5.9.3 Telephone /Soft Cover Books | 5.9.10 Milk Jugs, Bleach/Detergent/
Shampoo Bottles |
| 5.9.4 Junk Mail/Envelopes (all types) | 5.9.11 Glass Bottles/Jars (any color) |
| 5.9.5 Paper | 5.9.12 Metal Cans (tin/steel/
aluminum) |
| 5.9.6 Paperboard (cereal/tissue boxes) | |
| 5.9.7 Cardboard | |

Section 6. DESCRIPTION of PROHIBITION to IMPROPERLY DISPOSE of WASTE

The following shall apply as to the prohibitions for improperly handling and disposing of garbage, trash and rubbish:

- 6.1 It shall be unlawful for any person, firm, corporation, association or any other entity to throw, place, deposit or leave any trash, garbage, rubbish, ashes, refuse, yard waste or other foreign substance, upon any sidewalk, crosswalk, avenue, court, street, lane, alley, park or other public place within the Town of Cheswold, or upon any property owned by the Town; or upon any property over which the Police Department of the Town extends; or upon any property or structure subject to the review or code inspection of the Town of Cheswold Building Inspector/Code Enforcement Officer.
- 6.2 It shall be unlawful for any person, firm, corporation, association or any other entity to drop, throw or deposit any litter or waste from a mobile conveyance that lands upon any street, road, highway, court, lane, park, alley or lot, without the consent of the property owner. Vehicle drivers shall be responsible for anything thrown from their vehicles, even if the owner of the vehicle was not driving or was not in the vehicle.
- 6.3 The owner or occupier of any given lot shall place all trash and rubbish along the curb in front of each lot in order that it may be conveniently removed by the collector thereof.
- 6.4 No person shall dispose of any garbage by throwing or placing it upon any lot within the corporate limits of the Town of Cheswold or within a distance of one mile of the Town limits.
- 6.5 No person shall put, place or throw garbage, trash or rubbish collected or gathered from one lot upon or in front of any other lot within the Town without the expressed consent and permission of the owner of such other lot to do so.
- 6.6 No person shall put, place or throw garbage, trash or rubbish of any type into standing or moving waters at any time within the corporate limits of the Town of Cheswold.
- 6.7 At such time as the Town of Cheswold shall provide a municipally owned or municipally approved trash collector, each lot owner shall be required to contract trash collection from said trash collector or to personally dispose of trash in a State approved trash facility.
- 6.8 Until such time as the Town of Cheswold shall provide a municipally owned or municipally approved trash collector, each lot owner in the Town of Cheswold shall contract for trash collection by a trash collector who possesses a valid Business License with the Town.
- 6.9 No person shall allow a trash receptacle/container or trash bags to remain curbside or publicly visible following twelve, (12), hours after trash collection.

Section 6. DESCRIPTION of PROHIBITION to IMPROPERLY DISPOSE of WASTE
“continued”

- 6.10** It shall be unlawful to burn any garbage and combustible refuse except in accordance with the regulations and laws of the Department of Natural Resources and Environmental Control, (DNREC), of the State of Delaware and the permission of the Cheswold Fire Company.

Section 7. AUTHORITY TO ACT

- 7.1** The Building Inspector/Code Enforcement Officer of the Town of Cheswold is hereby authorized to take appropriate action set forth herein to notify persons of violations of this Ordinance.
- 7.2** The Police Department of the Town of Cheswold is hereby authorized to take appropriate action set forth herein to notify persons of violations of this Ordinance and to respond to request for assistance from the Building Inspector/Code Enforcement Officer.

Section 8. DETERMINATION of VIOLATIONS

- 8.1** The Building Inspector/Code Enforcement Officer shall make determination of violations through visual inspection of lots on days prior to; of; and twelve, (12), hours after trash pick-up.
- 8.2** The Officers of the Police Department may make determination of violations through visual inspection of lots while performing their daily patrol duties.
- 8.3** The Building Inspector/Code Enforcement Officer and/or an Officer of the Police Department may also make determination of a violation as a result of either phone or written complaints from a citizen and subsequently verified by a visual inspection by the Officer.

Section 9. NOTICE of VIOLATION

The following shall apply in providing notification to violators of this Ordinance:

- 9.1** Upon determination of a violation of this Ordinance, the Building Inspector/Code Enforcement Officer will provide notification of the violation by forwarding a certified US Postal Service letter to the property owner of record.

Section 9. NOTICE of VIOLATION *“continued”*

- 9.2 The written Violation Notice will denote the date and time of the violation as well as the address and a brief description of the violation type. It shall also include the amount of the violation fee.
- 9.3 The Building Inspector/Code Enforcement Officer may also provide additional notification of the violation by leaving a violation sticker at the involved property structure.
- 9.4 The Violation Notification will also provide directions for corrective action, if applicable.
- 9.5 The Officers of the Police Department of the Town Cheswold may also provide notification of violations and administer penalties for violations.
- 9.6 Such notice shall be presumed received upon personal delivery or upon the date such notice was deposited in the U.S. mail.
- 9.7 The fact that such notice is not actually received shall not be a defense to enforcement of this Ordinance.

Section 10. VIOLATIONS: SHORT DESCRIPTIONS and PENALTIES

Following are short descriptions of garbage, waste and rubbish, (waste), violations and their associated violation number.

10.1 Violation Number and Associated Short Description

- 10.1.1 Throwing or placing waste along the curb.
- 10.1.2 Disposal of waste by throwing or placing it upon any lot within the corporate limits of Town of Cheswold or within 1 mile of the Town.
- 10.1.3 Disposal of waste by throwing it from one lot upon or in front of any other lot within the Town, without the expressed consent and permission of the owner of such other to do so.
- 10.1.4 Disposal of waste by throwing it into standing or moving waters.
- 10.1.5 Failure to dispose of waste through contracted trash collection or State approved trash facility.
- 10.1.6 Allowing waste to accumulate on a lot or property without proper disposal.
- 10.1.7 Failure to contract with municipally owned or approved trash collector, when available.
- 10.1.8 Failure to remove trash containers, trash bags, or trash from public view within twelve, (12) hours of trash collection.

Section 10. VIOLATIONS: SHORT DESCRIPTIONS and PENALTIES *“continued”*

10.2 Violation Fees

- 10.2.1** Any person, firm, corporation, association, or other entity violating the provisions of this Ordinance shall be subject to a fine of not less than Fifty Dollars, (50.00), but not more than One Thousand Dollars, (\$1,000.00), and costs.
- 10.2** Upon judgment or conviction, the violator shall be liable for, forfeit, or pay a penalty or fine in the amount of \$50.00, for the first violation, and;
- 10.3** Subsequent violations will be at a cost of \$100.00 each.
- 10.4** Each and every day that such violation occurs or continues shall constitute and be punishable as a subsequent offense.
- 10.5** All violation fees are due for payment within 90 days of the issue of the penalty.
- 10.6** All violation fees not paid within 90 days shall be added to the tax due record of the property owner with associated interest and penalties.

Section 11. Severability

- 11.1** If any provision of this Ordinance or any application of this Ordinance to any particular entity or circumstance shall be deemed invalid, such invalidity shall not affect any other provision or application of this Ordinance, which may otherwise be given effect and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 12. EFFECTIVE DATE

- 12.1** This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect from July 1, 2012 and after the date of its final passage and adoption.

Ordinance No. 02-15-13-040 entitled, Garbage, Trash and Rubbish was duly adopted by a majority vote of the Cheswold Town Council at the Council Workshop meeting held on August 20, 2013, at which a quorum was present.

I, Donald F. Tinari, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of this Ordinance passed by an affirmative majority vote of all elected members of the Town Council of Cheswold at a regularly scheduled Town Council Workshop Meeting, held on, Tuesday, August 20, 2013, at which a quorum was present and voting throughout, and that the same is still in force and effect.

Attorney Review Complete: June 14, 2013 by Fred Townsend III, Esquire.

CERTIFIED: Donald F. Tinari Date: August 20, 2013
Donald F. Tinari - Mayor

ATTEST: Theon E. Callender Date: August 20, 2013
Theon E. Callender - Secretary/Treasurer

Agreed: Robert W. Sine Date: August 20, 2013
Vice-Mayor Robert W. Sine

Agreed: Justin Curley Date: August 20, 2013
Councilperson Justin Curley

Agreed: Absent Date: August 20, 2013
Councilperson Mildred Johnson

Agreed: Sherry Lambertson Date: August 20, 2013
Councilperson Sherry Lambertson

NOTARIZED: Shadina Jones Date: August 21, 2013
Shadina Jones – Town Clerk

Ordinance No.: 02-15-13-040

Primary Sponsor: Secretary/Treasurer Theon E. Callender
Co-Sponsor: n/a

Introduction: March 26, 2013