

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWN OF DEWEY BEACH, DELAWARE BY AMENDING CHAPTER 153 RELATING TO SOLID WASTE AND RECYCLING; AND BY AMENDING CHAPTER 117 RELATING TO LICENSING OF BUSINESSES AND FEES.**

**WHEREAS**, a reduction in the number of solid waste and recycling collection vehicles traveling within the town of Dewey Beach promotes public safety, enhances the general appearance of the community, and is beneficial to efforts to reduce public disturbances;

**WHEREAS**, solid waste and recycling companies currently serving the Town of Dewey Beach do not currently offer weekly recycling collection;

**WHEREAS**, the Commissioners of the Town of Dewey Beach have determined that by implementing a single vendor system for the collection of trash and recycling, price efficiencies can be achieved for owners of residential properties in Dewey Beach.

**WHEREAS**, the Commissioners of the Town of Dewey Beach believe that, the implementation of a single vendor system for solid waste and recycling collection services for residential properties is consistent with its power and duty under its Charter to promote the health, safety, welfare, cleanliness, and good order of the Town;

**WHEREAS**, the Trash Committee of the Town of Dewey Beach has completed an analysis of the merits of a single vendor system for the collection of solid waste and recycling and recommends that the Commissioners of the Town of Dewey Beach enact such a system;

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE TOWN COMMISSIONERS OF THE TOWN OF DEWEY BEACH, DELAWARE IN SESSION MET THIS \_\_\_\_\_, THAT:**

**SECTION 1.** Amend Chapter 153 of the Code of Ordinances of the Town of Dewey Beach restated in its entirety below by striking the provisions depicted herein as struck and by inserting the underlined new and substitute provisions depicted below:

**Chapter 153. Solid Waste**

**§ 153-1 Definitions.**

*[1] Editor's Note: Pursuant to Ord. 724, adopted 1-9-2016, all definitions throughout the Code were transferred to Ch. 1, Art. III, Definitions.*

**§ 153-2 Depositing garbage or refuse in public place prohibited.**

It shall be unlawful and a nuisance to throw, place or deposit any ashes, garbage, refuse, trash or other foreign substance that is not properly containerized upon any sidewalk, crosswalk, avenue, street, lane, alley, bridge, park or other public place or

upon any property ~~owned by the Town~~ within the limits of the Town of Dewey Beach.

**§ 153-3 Depositing garbage or refuse on private property.**

- A. Collected from within the Town: It shall be unlawful to throw, put, place or deposit any garbage or refuse collected or gathered from one lot upon or in front of any other lot within the Town.
- B. Collection from sources outside the Town: It shall be unlawful for any person to throw, put, place or deposit in, on or in front of any private or public property within the Town any garbage, ashes or refuse collected or gathered from a place outside the Town limits of the Town of Dewey Beach.

**§ 153-4 Collection of Trash and Recyclables.**

~~The following procedures shall govern the disposition and collection of ashes, garbage, trash, recycling and refuse in the Town of Dewey Beach:~~

A. Requirements and Applicability.

- (1) Residential properties not offered for rent.
  - (a) Owners of residential properties may dispose of their trash by transporting it to an out of town location without the use of a trash collection service.
  - (b) Owners of residential properties who contract for trash collection services shall engage the Town's designated vendor for the collection of trash and recyclables.

~~All property owners in the Town are required to arrange for reasonable garbage, trash and rubbish collection so as to maintain clean and sanitary conditions at the premises. Every residential premises which is the subject of a Dewey Beach business license to rent must have trash removed from the premises twice weekly during the period of rental occupancy~~

- (2) Residential properties offered for rent, minimal requirements. Owners of any residential property which is the subject of a residential rental license shall contract with the Town's designated vendor for trash and recycling collection services. Minimal service collection frequency shall be twice weekly for trash and once weekly service for recycling from May 1 through September 30 of each year. For any period between September 30 and May 1 of the subsequent year in which such property is rented, owners shall contract with the Town's designated vendor for not less than once weekly trash and recycling services. Additionally, owners of properties offered for rent shall elect and maintain valet service from the Town's designated trash and recycling collection vendor during any period in which trash and recycling collection is required hereunder.

- (23) All businesses licensed by the Town of Dewey Beach which sell carry-out food products shall have a place at the entrance to their businesses, when open for business, a minimum of one trash container, said size, design, advertising slogan (no graphics), and dimension to be determined and approved by the Town Building Official. Each trash container will be lined with a plastic bag and the container may contain the name of the business that is responsible for the maintenance of the can and may contain an approved advertised slogan. The trash and recyclables deposited in said container shall be emptied at least once each day or as soon as the container is filled to capacity, whichever occurs first. Seasonal businesses must remove the container when they are closed for business. The cost of obtaining these trash receptacles, their maintenance, and the removal of the trash and recyclables will be borne by the business.
- (4) ~~All owners of property or agents thereof which property is the subject of a rental license as described in Chapter 117, § 117-13 shall provide evidence of semiweekly trash removal service or self-service during the period commencing the Friday before Memorial Day and continuing twice weekly thereafter through the Tuesday following labor day as a condition of receiving said rental license.~~ Commercial and mixed-use properties. Commercial property owners may choose any trash and recycling collection vendor licensed by the Town of Dewey Beach to service their property. A residential dwelling unit owner on a property shared by a commercial entity may arrange to use the waste containers maintained by the commercial entity.
- (5) Multi-unit residential properties (e.g., condos, townhouses, stacked cottages, duplexes) Owners of multi-unit residential properties that do not have a commercial use on the property shall obtain service from the Town's designated residential trash and recycling vendor. This service may be arranged as a single account for a container, set of containers, or dumpster that is shared among all the residents of the property.
- (6) The Town manager is hereby authorized to hear and grant exemptions to the requirements of this section to owners who demonstrate hardship and/or exceptional practical difficulty in complying herewith.
- B. ~~Regulations~~ General requirements governing all refuse, and/or garbage and/or recyclables placed along the curb or property line.
- (1) Refuse, garbage, recyclables and ashes.
- (a) All trash, refuse, garbage, recyclables and ashes shall be enclosed in a rigid trash or recyclables container suitable for collection and disposal by a licensed trash-collection and/or recycling company.
- (b) Rigid containers shall have tight-fitting lids.
- (c) Plastic or paper bags containing trash, refuse, garbage, recyclables and ashes may not be placed directly on the curb or property line for collection.

(2) Yard waste, bulk waste and cardboard.

(a) ~~In lieu of containers or plastic bags, b~~Branches, sticks, tree trimmings and the like ~~may~~ shall be securely tied together in bundles for collection by the waste collection service provider. Each bundle shall not exceed 50 pounds in weight or four feet in length. Yard waste must be collected within 48 hours of being placed along the curb or property line. Yard waste and bulk waste shall be collected upon the making of special arrangements with the waste collection service provider.

(b) Paper and cardboard may be bundled with cord, each bundle not to exceed 50 pounds in weight or four feet in length.

(3) Time limitation of placement.

It shall be unlawful to store any residential or commercial trash or recyclables container, yard waste or bundle of paper and cardboard or branches and sticks in any public right-of-way or along the curb or property line except between the hours of ~~12:00 noon~~ 5:00 p.m. Sunday through 8:00 p.m. Monday and 5:00 p.m. Thursday through 8:00 p.m. Friday.

C. Collections. All persons engaged in the collection and removal of refuse and/or garbage, recyclable materials, ashes and yard waste, including those employed by the Town for that purpose, shall collect and transport same through or along the avenues, streets, lanes, alleys or other public ways of the Town as follows:

**[Amended 4-6-2013 by Ord. No. 701]**

(1) In a sanitary, covered, liquid-tight container or motor vehicle body as set forth by the regulations of the Delaware Solid Waste Authority.

(2) Only ~~on Mondays and Fridays~~ between the hours of 8:00 a.m. and ~~2:00~~ 4:00 p.m.

(3) For collections from residential properties, only on Mondays and Fridays unless an exception is approved in advance by the Town Manager.

§ 153-5 Public waste containers.

A. All public waste containers placed by the Town along any public right-of-way or easement area of the avenues, streets, alleys or sidewalks of the Town shall be used by members of the general public as the place or places of disposal of waste paper and material accumulated by the members of the general public, aforesaid, while using the public ways of the Town. To this end, no person engaged in business, either as owner, manager, operator, employer, or other capacity, and no

person residing in any dwelling, either as owner, tenant, employee or guest, shall dispose of or place any garbage, ashes or refuse in any public waste containers of the Town.

- B. The Town shall collect from all businesses an annual business license fee covering the cost of collection from the public trash containers. The Town shall collect from all property owners receiving rental licenses an annual rental license fee covering the cost of collection from the public trash containers. The amount of the annual fees shall be set by the Town Commissioners when the annual budget is approved and shall be billed on an annual basis, due and payable as part of the business or rental license fee. The amount of such annual fee shall be established by resolution and set out in the Town's Schedule of Fees.

#### § 153-6 Violations and penalties.

Any person violating any provision of this chapter shall have committed a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach. Each violation shall incur a fine of \$25 for the first offense, \$50 for the second offense, and \$100 for any offense thereafter.

#### § 153-7 Removal by Town; recovery of expense.

- A. In addition to the sanctions described in § **153-6** hereinabove, if, within five days after written notice from the Town Manager, to the owner, lessee, or possessor of land or improved premises, of a condition which violates the provisions of this chapter, the condition has not been corrected or removed, the Town Manager may take action to correct the condition and incur any expense necessary to correct or remove the condition. These corrections include, but are not limited to, the removal of permanent trash enclosures or dumpsters from the public right-of-way. For reasons of public health and sanitation, registered mail notice to the owner of such land shall not be required. [**Amended 3-17-2016 by Ord. No. 727**]
- B. Any expense of removal or correction incurred by the Town under this chapter shall be paid by the owner of the land or the improved premises within 10 calendar days after written notice thereof by ~~registered mail~~ certified mail, registered mail, or first class mail accompanied by a certificate of mailing to the owner of the property. If said amount is not paid within such time, such amount, together with a penalty of 10% of such expense and interest on such expense of 6% per annum, shall be assessed against the land or improved premises and shall, until paid, constitute a lien against such land or improved premises in favor of the Town upon the filing by the Town Attorney of a certificate of lien setting forth the amount of such expense, including penalty and interest.
- C. In addition to any other remedy, the Town may maintain a civil action for the recovery of such expense of removal and the penalty and interest against the owner or possessor and shall be awarded reasonable attorney's fees.

- D. No civil liability shall attach to any act of any contractor or Town employee engaged in carrying out the provisions of this chapter.

**SECTION 2.** Amend Section 117-2 of the Code of Ordinances of the Town of Dewey Beach by adding thereto a new subsection C. as follows:

“C. Trash and recycling collection vendors. During any time period in which the Town has designated and authorized an exclusive vendor of trash collection services for residential properties as set forth in Chapter 153 hereof, non-designated vendors may apply for a restricted business license which does not authorize collection of trash and recycling from residential properties other than as an exception to the requirement of Chapter 153 hereof.”

**SECTION 3.** Amend Subsection 117-13B.(1) of the Code of Ordinances of the Town of Dewey Beach restated below by adding the new underlined subsection depicted below:

“§117B (1) Residential property rentals: \$142 base fee, plus \$11 for each bedroom over two, plus \$25 trash and recycling program administrative fee.”

**SECTION 4. Severability.** If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

**SECTION 5. Adoption.** This Ordinance shall take effect immediately upon its adoption by a majority vote of the Commissioners of the Town of Dewey Beach with the exception of Section 3 which shall take effect for 2018 license applications.

Adopted by at least a majority vote of all Commissioners of the Town of Dewey Beach on \_\_\_\_\_.

BY: \_\_\_\_\_  
Mayor Dale Cooke

ATT: \_\_\_\_\_  
Town Manager Marc Appelbaum