



## ORDINANCE #2022-13

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:**

That Chapter 90 – Solid Waste, Section 90-2 – Unlawful deposits be amended to read as follows:

**Sec. 90-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alley* means any public way, generally of less width than a street, used for public utility purposes and right-of-way, and as an alternate secondary or emergency route for vehicle and pedestrian traffic, generally situated at the rear of or alongside a tier of lots.

*Apartment* means a suite or set of rooms, with necessary appurtenances, in a building occupied or suitable to be occupied as a dwelling unit.

*Apartment complex* means an assemblage of large multiple dwelling unit buildings located in zones RG-2 and RG-4 as defined by appendix B to this Code pertaining to zoning.

*Apartment house* means an owner-occupied dwelling unit with apartments, or a building, formerly a residence, converted into apartments.

*Automated collection* means the use of fully- or semi-automated mechanized lift collection vehicles with authorized containers.

*Building code* means the current edition of the city building code, adopted in article III of chapter 22.

*Bulk residential household waste* means materials too bulky to fit in city issued solid waste containers permitted in section 90-4.

*Bulk residential yard waste* means yard waste material too bulky to fit in private yard waste containers permitted in section 90-4.

*Commercial establishment* means any structure intended or used for the purpose of conducting a commercial business enterprise.

*Container* means a receptacle for the deposit of solid waste.

*Drive-in service* means a service involving city sanitation department employees driving in or on private property to collect commercial accounts.

*Duplex* means a structure intended for use and occupancy as two-family dwelling units.

*Dwelling unit* means a dwelling unit as defined by the city's building code (article III of chapter 22).

*Food establishment* means a cafe, restaurant, or other similar establishment serving food or food products, including quick service drive-ins where food is prepared or served.

*Garbage* means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products.

*Health inspector* means the head of the health department, or anyone authorized to act for him.

*Illegally dumped solid waste* means any solid waste placed on properties, with or without the consent of the owner or person in control, where such waste constitutes a nuisance detrimental to the public health and welfare.

*Industrial solid waste* means waste that is generated by businesses from an industrial or manufacturing process.

*Institution* and *institutional* mean any church, church building or structure housing any charitable, philanthropic or eleemosynary undertaking, or any school, or any publicly owned or governmental building.

*Manager* means the person in charge of real estate used for apartment, institutional or commercial purposes.

*Manual collection* means the service rendered in collecting municipal solid waste from containers, when containers can be handled by persons picking up the containers as distinguished from automated collection.

*Municipal solid waste* and *solid waste* mean solid waste resulting from or incidental to municipal, community, trade, business, and recreational activities, including garbage, rubbish (or trash), and all other solid waste, other than industrial solid waste.

*Newsprint* means a common and inexpensive machine-finished paper made chiefly from wood pulp, including, but not limited to, newspapers, magazines, periodicals, telephone books and catalogues.

*Occupant* means the person residing in a dwelling unit, specifically the head of such household.

*Owner* means the record title holder of real property.

*Permittee* means any person licensed by the state solid waste authority to contract to collect, remove or dispose of solid waste.

*Property line* means the peripheral boundary of real estate.

*Public easement* means a right-of-way used or dedicated to be used by any public utility, including, but not limited to, services such as electricity, telephone, gas, solid waste collection, water, sewer and drainage.

*Public way* means any street, alley, easement or other right-of-way.

*Recyclable material* or *recyclables* means any material or group of materials that can be collected and sold or used for recycling as designated by the Delaware Solid Waste Authority and/or State of Delaware.

*Recycling* means the process by which solid wastes are separated for use as raw materials, product or replacement of product.

*Residence* means a structure intended for use and occupancy as a one-family dwelling

*Rubbish* and *trash* mean all waste or refuse of any kind, including garbage, either combustible or noncombustible in nature, having little or no value except as waste or refuse.

*Sanitary landfill* means a method of disposing of municipal solid waste on land, without creating a nuisance or hazard to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area to reduce it to the smallest practical volume, and to cover it with a layer of earth at appropriate intervals.

*Street* means any public thoroughfare for the passage of vehicle and pedestrian traffic.

*Vehicle* means any wheeled conveyance.

*Yard waste* means plant material residues resulting from lawn maintenance and other horticultural gardening and landscaping activities including grass, leaves, pruning's, brush, shrubs and garden material provided that trunks and limbs do not exceed three inches in diameter and are cut in lengths not to exceed four feet. Leaves are considered yard waste except during times leaf collection is provided as scheduled by the city manager or his/her designee. Yard waste may not be comingled with trash, garbage or any other non-yard waste material.

(Code 1981, § 8-1; Ord. of 5-24-1982; Ord. No. 2019-10 , 5-13-2019)

## **Section 90-2. Unlawful deposits.**

- (a) On outside premises. It shall be unlawful for any person to place, deposit, discard, or otherwise cause to be put yard waste, garbage, rubbish, or any other type of waste on any outside premises within the city, whether public or private, in such a manner as to cause unsanitary, unsightly, or unhealthy conditions, except at such places as are, have been, or shall be designated by the city manager, and except in accordance with other provisions of this chapter. For the purposes of this subsection, the term "outside premises" includes, but is not limited to, streets, alleys, sidewalks, ditches, yards, lots, fields, streams, and exterior portions of buildings.
- (b) Inspections; citations. The city code enforcement officer shall regularly inspect all outside premises to enforce the provisions of subsection (a) of this section. The city code enforcement officer shall issue citations for violations for every occurrence and may abate such conditions pursuant to the provisions of the Charter and this Code.
- (c) Removal. The city reserves the right to remove waste determined by the code enforcement officer to cause unsanitary or unhealthy conditions or cause a public nuisance should the owner, occupant or person notified fail to remove the waste and address the public concern in an expedient fashion. In such cases the owner, occupant or person notified will be billed for the waste removal.
- (d) Prosecution; presumptions. In the prosecution of a violation of subsection (a) of this section, the following presumptions shall apply:
  - (1) Owner, occupant. If the condition resulting from the violation was found on premises owned and/or occupied by the person to whom notice was given, then it shall be presumed that said owner and/or occupant was responsible for said

condition. Notice shall be in writing and be physically posted on the property. If the person to whom notice was given fails to notify the city code enforcement officer that he or she is not responsible for said condition within forty-eight hours (two business days) of notification, then it shall be presumed that the said person notified was in fact responsible for said conditions not being removed. The presumptions described above are rebuttable by the person charged and must be rebutted by a preponderance of the evidence for the person so charged to be exonerated.

- (2) Multiple dwelling units. If the condition resulting from the violation was found on the property whereon multiple dwelling units exist and the party committing the violation cannot with reasonable certainty be determined, then it shall be presumed that the owner or manager of the subject premises, upon being given written notice, is the party responsible for ensuring that the condition is removed from the premises.

(Code 1981, § 8-2; Ord. of 5-24-1982; Ord. No. 2019-10 , 5-13-2019)

**BE IT FURTHER ORDAINED:**

That Appendix F, Chapter Insert Chapter 90. Solid Waste, Sec. 90-17 Violations; be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout as follows:

**Chapter 90. Solid Waste**

Chapter 90. Solid Waste	Fees and Fines
Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.	
Sec. 90-16. Violations; penalties	Not less than \$100.00, nor more than \$1000.00 for each violation

ADOPTED: OCTOBER 10, 2022

**SYNOPSIS**

This ordinance defines the types of notification for unlawful deposits and changes the timing of notification. This ordinance also amends Appendix F. The purpose of this ordinance change is to prevent unlawful deposits from creating a continued public nuisance and safety risk. 139

(SPONSORS: ANDERSON AND HUGG)

Actions History:

09-13-2022 - Legislative, Finance, and Administration Committee

09-27-2022 - First Reading – City Council

10-10-2022 - Final Reading – City Council