

Legislation Text

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Amending Chapter 10-700 of The Philadelphia Code, entitled "Refuse and Littering," to make changes relating to: City collection of waste; separation of recyclable materials from other waste for City and private collection; private collection of waste for those not eligible to receive City collection; planning, reporting, education and signage requirements applicable with respect to certain regulated premises; providing for penalties and enforcement; and making technical changes; all under certain terms and conditions.

WHEREAS, Act 101 of 1988 requires municipalities to implement source-separation and collection programs for recyclable materials for both residential and commercial properties; and

WHEREAS, Act 101 also requires counties to update their Municipal Solid Waste Management Plan every 10 years; and

WHEREAS, Counties are required to appoint a citizens' Solid Waste and Recycling Advisory Committee to provide input and recommendations regarding development of the Municipal Solid Waste Management Plan; and

WHEREAS, The Solid Waste and Recycling Advisory Committee has expressed its support for increasing recycling participation and diversion, particularly in the commercial sector; and

WHEREAS, Council supports the Mayor and the Streets Department's efforts to develop and maintain sustainable recycling programs and consider the advice of the Solid Waste and Recycling Advisory Committee related to certain recycling and solid waste management policies and programs; and

WHEREAS, Removing certain materials from the municipal waste stream will decrease the flow of solid waste to disposal, aid in the conservation and recovery of valuable resources, conserve energy in the manufacturing process, and increase the supply of reusable materials for the Commonwealth's industries; and

WHEREAS, It is in the public interest to reduce and minimize contamination of recyclable materials; and

WHEREAS, Due to changes in the composition of the municipal solid waste stream and changes in paper and packaging, additional materials, including organics, need to be considered for recycling in order to improve diversion rates; and

WHEREAS, The Streets Department is conducting a study to determine the economic and operational feasibility of organics recycling; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 10-701 of The Philadelphia Code is amended as follows:

§10-701. Definitions. In this Chapter the following definitions apply:

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(4.1) *Debris.* Any material resulting from the construction or demolition of any structure, including wood, stones, bricks, rocks, concrete, gravel or earth.

(4.2) *Department.* The Department of Streets.

* * *

(8.1) *Municipal Waste or Waste.* Any Garbage, Rubbish, Debris, refuse or 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, but not including Recyclable Materials.

* * *

(10.1) *Operator.* The owner of, and any person in control of, any Regulated Premises.

* * *

(11.1) *Private Business Receptacle.* A receptacle placed by a private commercial business owner or manager at or near his or her business location for the reception of litter, including newspapers and commercial and non- commercial handbills.

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(14.1) *Recyclable Materials.* Materials designated by regulation that would otherwise be disposed of or processed as Municipal Waste but which are appropriate for separation for future recovery and sale or reuse.

(14.2) *Regulated Premises.* Premises where Waste is generated, including each separate unit in a multi-unit building or complex of buildings, such as a portion of a property used for commercial purposes in a multi-use building; provided that, with respect to any residential unit within a multi-unit building or complex of buildings at which the building manager, owner, condominium association or other management entity arranges for collective removal of Waste, the building or complex of buildings as a whole, and not individual residential units thereof, shall be considered the Regulated Premises. Regulated Premises does not include exclusively residential buildings with six or fewer dwelling units.

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[(18) *Debris.* Any material resulting from the demolition of any structure, including stones, bricks, rocks, concrete, gravel or earth.

(19) *Private Business Receptacle.* A receptacle placed by a private commercial business owner or manager at or near his/her business location for the reception of litter, including newspapers and commercial and non- commercial handbills.]

SECTION 2. Section 10-717 of The Philadelphia Code, entitled “Source Separation, Collection, and Disposal of Refuse,” is repealed in its entirety and replaced with the following:

§10-717. *Collection of Municipal Waste and Recyclable Materials.*

(1) *Except as otherwise permitted in the Code, no person shall place Municipal Waste or Recyclable Materials in the right-of-way or at a pick-up location for City collection except pursuant to collection regulations established by the Department, which regulations may include provisions pertaining to:*

- (a) *designated collectible Municipal Waste materials;*
- (b) *the separation of Recyclable Materials from Municipal Waste;*

- (c) *designated Recyclable Materials, including, but not limited to paper (including mixed paper and office paper), plastic bottles and containers, aluminum, steel and bi-metallic cans, corrugated cardboard, glass bottles and jars, and leaves;*
- (d) *approved containers;*
- (e) *limits on quantities;*
- (f) *weights of containers;*
- (g) *dates and times for set-out; and*
- (h) *such other areas of regulation as the Department shall deem necessary.*

(2) *All owners and persons in control of any premises shall separate out any designated Recyclable Materials from Municipal Waste set out for City collection.*

(3) *Private Collection. Every Operator of Regulated Premises not eligible for collection pursuant to this Chapter or the regulations adopted hereunder, and every Operator of Regulated Premises eligible for City collection services but for which City collection is not used, shall contract with one or more private haulers for the collection of Municipal Waste and Recyclable Materials in accordance with this Code.*

SECTION 3. Section 10-718 of The Philadelphia Code, entitled “Enforcement,” is amended as follows:

§ 10-718. Enforcement.

(1) For the purposes of enforcing the provisions of this Chapter, notice of violation *under § 1-112* shall be issued by police officers, authorized inspectors within the *Department or the Department of Licenses and Inspections*, or any other person authorized to enforce [ordinances.] *ordinances; provided that, for purposes of § 1-112(3), the required amount to be remitted shall be fifty dollars (\$50), except as follows:*

- (a) *For violations of § 10-711 (Handbills on Vehicles), § 10-723 (Handbills on Sidewalks, Streets and Private Property), § 10-723.1 (Removing Handbills), or § 10-723.2 (Distribution of Handbills): one hundred dollars (\$100);*
- (b) *For violations of § 10-702 (Litter in Public Places), § 10-703(2) (Placing Household Refuse in a Public Receptacle), or § 10-722 (Use of Dumpsters): one hundred fifty dollars (\$150); and*
- (c) *For violations of § 10-710: no stipulated payment shall be allowed.*

(2) *The Department may by regulation provide for stipulated amounts other than those provided in subsection (1)(a) and (b).*

[(2) Whenever a police officer or any other official authorized to enforce ordinances observes a violation of this Chapter, he shall hand to the violator or leave upon or affix to the premises where the violation occurred a printed notice of violation. Such notice shall bear the date, time and nature of the violation, when known, the identity of the violator, the address of the violator or the address where the violation occurred, the amount to be remitted in response to the notice of violation, the penalty which can be imposed by the court for the violation, and shall be signed by the person issuing the notice and shall bear the police officer's badge number or other official identification number identifying the person issuing the violation notice.

(3) Any person who receives a notice of violation, except a notice of violation of § 10-702, § 10-703(2), § 10-710, § 10-711, § 10-722, § 10-723, § 10-723.1, § 10-723.2 or § 10-717.1 may, within ten (10) days, pay the amount of fifty (50) dollars, admit the violation and waive appearance before a Municipal Court Judge. Any person who receives a notice of violation of § 10-702 or § 10-703(2) may, within ten (10) days pay the amount of one hundred fifty (150) dollars, admit the violation and waive appearance before a Municipal Court Judge. Any person who receives a notice of violation of § 10-711, § 10-723, § 10-723.1, or § 10-723.2 may, within ten (10) days, pay the amount of one hundred (100) dollars, admit the violation and waive appearance before a Municipal Court Judge. Any person who receives a notice of violation of § 10-722 may, within ten (10) days, pay the amount of one hundred

fifty dollars (\$150), admit the violation and waive appearance before a Municipal Court Judge. The notice of violation shall contain an appropriate statement for signature by the violator for the purpose of admitting the violation and waiving a hearing, and shall be returned by the violator when he remits the stipulated payment. No such stipulated payment shall be permitted in the case of a person who receives a notice of violation of § 10-710.

(4) If a person who receives a notice of violation fails to make the prescribed payment within ten (10) days of the issuance of the notice of violation, and, in the case of the issuance of a notice of violation of § 10-710, a code enforcement complaint shall be issued for such violation in such manner as provided by law. If the person named in the code enforcement complaint is found to have violated any provision of this Chapter or fails to appear on the date set for hearing, he shall be subject to the imposition of penalties as set forth in § 10-719, plus court costs.]

[(5)] (3) Whenever a police officer has probable cause to believe a vehicle was or is being used to violate subsection 10-710 (2), the officer may seize the vehicle.

SECTION 4. Section 10-724 of The Philadelphia Code, entitled “Commercial Sector Waste Management and Recycling,” is amended as follows:

§ 10-724. [Commercial Sector] Waste Management and Recycling *Requirements for Certain Regulated Premises.*

[(1)] Definitions. In this Section, the following definitions apply:

- (a) **Municipal Waste.** 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 in the Pennsylvania Solid Waste Management Act 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.
- (b) **Compostible Material.** Any Municipal and/or Residual Waste, organic in nature that can be composed without interfering with the composting process and that will not prevent the use of the finished compost as a soil additive. Compostible Material includes Garbage and Yard Waste and can include paper.
- (c) **Operator.** A person, including any individual, partnership, corporation, association, institution, cooperative enterprise, or governmental agency, who or which arranges for the collection and/or disposal of Municipal Waste, Residual Waste or Postconsumer Material generated at any Regulated Premises.
- (d) **Postconsumer Material.** Any product generated by a business or consumer which has served its intended end use and which has been separated or diverted from solid waste for the purposes of collection, recycling and disposition. The term includes industrial by-products that would otherwise go to disposal or processing facilities. The term does not include internally generated scrap that is commonly returned to industrial or manufacturing processes.
- (e) **Recycling.** The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.
- (f) **Regulated Premises.** Each premises located in the City of Philadelphia which generates Municipal Waste, Residual Waste, Postconsumer Material, Compostible Material or Construction/ Demolition Material that does not receive collection services by the Department of Streets of the City of Philadelphia or receives privately contracted waste disposal service for at least a part of its municipal solid waste stream; provided that, in any multi-tenant or condominium building or complex of buildings in which the building manager, owner, condominium association or other management entity arranges for collective removal of such Municipal Waste, Residual Waste and/or Postconsumer Material, the building or complex of buildings as a whole, and not individual units thereof, shall be considered a single Regulated Premises.
- (g) **Residual Waste.** Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from an

industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility, provided that it is not hazardous.

- (h) Source-separated Recyclable Materials. Materials that are separated from municipal waste at the point of origin for the purpose of recycling.]

(1) *Diversion Requirements for Regulated Premises.* The Operator of each Regulated Premises shall, through an on-premises diversion program, provide receptacles for collection of Recyclable Materials and a method of removal of such materials that complies with regulations of the Department and:

(a) if City collection is used, provide for separation and placement of Recyclable Materials for City collection in accordance with Section 10-717 and regulations established by the Department; or

(b) if City collection is not used, provide for the removal of such Recyclable Materials by contracting with a recycling service provider.

(2) Regulated Premises Planning and Reporting Requirements. The Operator of each Regulated Premises shall prepare a *Solid Waste and Recycling Plan* with respect to such Regulated Premises [briefly enumerating the means which will be used to meet the recycling objectives established at Section 10-717.] *describing the means that will be used to meet the diversion requirements established in this Section.* Such *Solid Waste and Recycling Plan* shall: [contain the following information:

- (.1) The amounts of Municipal and/or Residual Waste generated at such Regulated Premises, estimated in tons per year.
- (.2) Certification of compliance with all applicable regulations adopted pursuant to Section 10-717.
- (.3) Description of which Postconsumer Materials will be targeted for separation from the Municipal and/or Residual Waste generated at such Regulated Premises.
- (.4) Description of how Postconsumer Materials will be separated from Municipal and/or Residual Waste.
- (.5) Indication of whether the separated recyclables are to be collected as Source-separated Recyclable Material; or whether an exemption will be sought from source-separation requirements.
- (.6) Designation of each garbage collector, private waste hauler, recyclable material collector and postconsumer material broker with which the Operator arranges for removal of garbage, waste, or recyclable material from such Regulated Premises.
- (.7) Indication of whether such Operator agrees to a release permitting the City to use recycling credits attributable to such Regulated Premises in the City's application to the Commonwealth for Performance Grants.]
 - (a) *be prepared on a form prescribed by the Department;*
 - (b) *list the Recyclable Materials to be separated from Waste at the Regulated Premises; and*
 - (c) *identify whether City collection is used and, if not, identify each hauler with which the Operator arranges for removal of Municipal Waste and Recyclable Materials.*

(3) *Filing of Solid Waste and Recycling Plan.* The Operator shall send the *Solid Waste and Recycling Plan* [referred to above shall be sent] to the [City of Philadelphia Recycling Office, maintained] *Department and shall maintain the Plan* on file and *post it in a public area* at the Regulated Premises. [and shall be initially distributed, and distributed at the time of any amendment, by the Operator to residents of and persons employed at the Regulated Premises.]

(4) *Amendment of the Plan.* [The Recycling Plan shall be amended by the] *The Operator* of such Regulated Premises shall, within thirty (30) days of any change in practices described therein, *amend the Plan* and the amended plan shall be [sent to the City of Philadelphia Recycling Office and shall be posted in a public area and available for inspection at the premises and distributed to residents and/or employees.] *filed and maintained as set forth in subsection (3).*

[(5)] The provisions of this Section may be enforced through the use of notices of violation in accordance with the procedures provided in Section 10-718.]

[(6)](5) *Occupant Education Requirements. The Operator of a Regulated Premises shall provide waste disposal and recycling information and instructions, in accordance with regulations established by the Department:*

(a) *annually, to all occupants at the premises;*

(b) *to each new occupant no later than the thirtieth day after the person begins occupancy; and*

(c) *to all occupants within thirty (30) days of a material change in the Waste or Recyclable Materials removal service provided.*

(6) *Signage Requirements. The Operator of a Regulated Premises shall ensure that containers or locations used at the premises to aggregate Municipal Waste and Recyclable Materials are marked as follows:*

(a) *Each drop-off area or container intended or used for multi-person collection and disposal of Waste shall be prominently marked "Waste."*

(b) *Each drop-off area or container intended or used for multi-person collection of Recyclable Materials shall be affixed with a sign that includes:*

(.1) *the universal "Chasing Arrows" recycling symbol;*

(.2) *the word "Recycling"; and*

(.3) *a written list and graphic representations of the Recyclable Materials that the operator intends to collect.*

[(6)](7) Penalties. * * *

SECTION 5. Section 10-726 of The Philadelphia Code, entitled "Disposal of Curbside Refuse, Rubbish, Garbage and Recyclable Materials," is amended as follows:

§ 10-726. [Disposal of Curbside Refuse, Rubbish, Garbage and Recyclable Materials] *Set Out Times For City Municipal Waste and Recyclable Materials Collection.*

[(1)] Regulations. The Department of Streets may promulgate regulations for the proper disposal of refuse, rubbish, garbage and recyclable materials, set out at curbside or other pick-up locations for collection by the City or any other collector. This Section is not intended to apply to disposal or collection regulated under Section 10-710 (Dumping of Debris and Short Dumping), 10-722 (Use of Dumpsters) or 10-724 (Commercial Sector Waste Management and Recycling).]

[(a)] (1) Notwithstanding any regulations to the contrary, [refuse, rubbish, garbage and recyclable materials,] *Municipal Waste and Recyclable Materials* set out for [daytime] City collection, shall be placed *out* [on the sidewalk adjacent to the curb at the front of the premises] *for collection*, as follows:

[(.1)] (a) From October 1st through March 31st, before 7:00 AM on the day of collection, but not before 5:00 PM on the previous day.

[(.2)] (b) From April 1st through September 30th, before 7:00 AM on the day of collection, but not before 7:00 PM on the previous day.

(2) Enforcement. Enforcement of this Section shall be pursuant to Section 10-718, except as follows:

(a) All notices of violation shall bear, in addition to the requirements of Section [10-718(2)] *10-718*, a statement indicating whether evidence containing the address of the property in violation was found among the refuse, rubbish, garbage or recyclable materials.

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Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.