

ORDINANCE #5 OF 2024

AN ORDINANCE OF AVOCA BOROUGH, LUZERNE COUNTY, RELATING TO THE SANITATION AND THE PROMOTION OF PUBLIC HEALTH AND SAFETY: PROVIDING FOR THE ESTABLISHMENT OF A PRINCIPAL COLLECTION AND DISPOSAL SERVICE FOR ALL GARBAGE, ASHES, REFUSE, ACCUMULATED IN THE BOROUGH AND THE SETTING OF A FEE FOR THE COLLECTION AND DISPOSAL.

WHEREAS, the Borough of Avoca has experienced an increase in tenant occupied residential properties within the Borough; and

WHEREAS, The Borough of Avoca has experienced an increase in the tenant occupied residential properties that have been delinquent in paying the garbage and refuse fee to the Borough; and

WHEREAS, The Borough of Avoca amends the its Garbage and Refuse Ordinance, which was enacted in 1984; AND

NOW THEREFORE, be it ordained as follows:

SECTION 1 – TITLE

This Ordinance shall be known as the Avoca Borough Garbage and Refuse Collection Ordinance.

SECTION 2 – PURPOSE

It is the purpose of this Ordinance and the policy of the Council of Avoca Borough, in order to protect and promote the public health and safety of its citizens, to establish the rights and obligations of owners and occupants to maintain and improve the quality of housing within the community. It is also the policy of the Borough that owners, managers, occupants, and tenants share responsibility to obey this Ordinance to promote public health, safety, and welfare. As a means to those ends, this Ordinance provides for a system of collection of refuse and payment of refuse fees.

SECTION 3 – DEFINITIONS

Whether or not capitalized, the following words, terms, and phrases used herein shall have the following meaning:

ASHES – The residue from the burning of wood, coal, coke, and other combustible materials for the purposes of heating and cooking.

BOROUGH – The Borough of Avoca, which is located within the confines of Luzerne County, Pennsylvania.

COUNCIL – Avoca Borough Council, Luzerne County, Pennsylvania.

COMMERCIAL ESTABLISHMENT – Any business establishment open to the public which generates refuse or garbage.

COMMERCIAL GARBAGE – All waste products normally generated by commercial or industrial establishments.

DWELLING UNIT – A dwelling unit consists of one or more rooms for living purposes together with separate cooking facilities, used or intended to be used by one or more persons living together or maintaining a common household and accessible from the outdoors, and accessible either directly or through an entrance hall shared with other dwelling units.

GARBAGE – The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

OCCUPANT - An individual who resides in a residential rental unit with whom a legal relationship with the owner/landlord is established by a lease or by the laws of the Commonwealth of Pennsylvania. (same as tenant).

OWNER - Any person, agent, operator, firm, corporation, partnership, association, property management group or fiduciary, jointly or severally, having legal, equitable or other interest in any real property; or recorded in the official records of the state, county or municipality as being vested all or part in holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate and including a mortgage holder in possession of a residential rental property. When used in this Ordinance in a clause prescribing any activity or imposing a penalty, the term, as applied to partnerships and associations shall mean each partner and as applied to corporations, the officers thereof.

PERSON - A natural person, partnership, corporation, unincorporated association, limited partnership, trust or any other entity.

PREMISES - Any parcel or real property in the Borough, including the land and all buildings and appurtenant structures or appurtenant elements, on which one or more rental units are located.

REFUSE – All waste products normally generated by non-commercial households.

RESIDENTIAL RENTAL PROPERTY/UNIT – Any structure within Avoca Borough which is occupied by someone other than the owner of the real estate as determined by the most current deed for which the owner of the said parcel of real estate received any value, including but not limited to money, or the exchange of services.

TENANT – An individual who resides in a rental property/unit with whom a legal relationship with the owner/landlord is established by a lease or by laws of the Commonwealth of Pennsylvania. (same as occupant).

WASTE DISPOSAL AND COLLECTION – The process of collecting refuse and garbage within the Borough of Avoca, including, but not by way of limitation, landfill tipping costs, employees' salaries, employees' benefits and other costs incidental hereto.

YARD WASTE – Tree trimmings, leaves, grass, weeds, clippings from bushes and shrubs from branches.

Singular words shall include plural and masculine words shall include feminine and neuter. The words "and" and "or" shall mean "and/or" whenever reasonably applicable.

SECTION 4 – ADMINISTRATION

The collection and disposal of refuse in the Borough of Avoca shall be under the supervision of the Borough Council of the Borough of Avoca. They shall have the authority to make regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection and disposal as may be advisable, including the designation of a person or organization to collect the fees and to set the compensation for the same.

SECTION 5 – PRE-COLLECTION PRACTICES

1. Ashes shall be placed in separate containers from garbage and rubbish.
2. Yard Waste shall not be collected with garbage and refuse. Yard Waste shall be collected separately.
 - a. Each Household is permitted three (3) standard size open containers (not to exceed thirty (30) pounds)
 - b. Paper bags can be used. Plastic Bags are prohibited.
 - c. Tree limbs are not to exceed three (3) feet in length and eight (8) inches in diameter.
 - d. Tree Stumps will not be collected.
 - e. Garbage, Rubbish, and Rocks are prohibited from being contained with yard waste.

SECTION 6 – REFUSE CONTAINERS

1. Garbage containers shall be of a capacity of not more than twenty (20) gallons and shall be provided with tight fitting covers.
2. Ash containers shall be metal and have a capacity of not more than twenty (20) gallons.
3. Rubbish containers shall be of a suitable kind, which can easily be handled by one man, such as a plastic bag.

SECTION 7 – STORING OF REFUSE

1. No person shall place any refuse in any street, alley, or other public place, or upon private property whether owned by such person or not, within the Borough of Avoca, except that it be in proper receptacles for collection or under express approval granted by the Avoca Borough Council.
2. Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited.

SECTION 8 - COLLECTION PRACTICES

1. Refuse shall be collected once each week. One bulk item is permitted to be placed out for collection on the first Monday of each month to be collected with regular collection.
2. Yard Waste shall be collected every Tuesday, weather permitting.

SECTION 9 – FEES

The fee for waste collection and disposal costs, hereafter referred to as the "refuse fee", shall be as follows:

1. The property owner shall be responsible for the payment of the refuse fee for each dwelling unit the property owner owns. The refuse fee set herein may be paid by the owner, tenant, lessee, or occupant of a particular dwelling unit, but shall be the ultimate responsibility of the property owner.
2. For single dwelling units and commercial establishments, the annual refuse fee for garbage, rubbish, ashes, and yard waste shall be established by the Avoca Borough Council.
3. All fees are payable by the last day of February of each year. If the last day of February falls on a Saturday, Sunday, or legal holiday, the refuse fee shall be due the next business day.
4. All fees shall be considered delinquent if not paid by March 1st of each year.
5. Any person whose refuse is not being collected by the Borough of Avoca under the terms of this Ordinance shall furnish a notarized affidavit to the Borough Council which describes the method and means of disposal of their garbage/refuse/ashes and shall also include a statement of the reasons for which said person is not having their garbage/refuse/ashes disposed of by the Borough of Avoca under the terms of this Ordinance.
6. The charge for said fee is hereby imposed on the real property owners of the dwelling units and commercial establishments.

SECTION 10 – EXONERATIONS

Any dwelling unit which is totally unoccupied, and which generates no refuse for an entire consecutive six-month or twelve-month period in a calendar year shall be exonerated from the charges as herein provided. Such exoneration shall be granted only after:

- (1) The owner(s) has filed a notarized affidavit with the Borough of Avoca certifying such vacancy; and
- (2) The owner must provide documentary evidence from two utilities, i.e., electric and water bills, showing the minimum six-month vacancy of the dwelling unit as demonstrated. Gas bills will not be accepted.

The Borough of Avoca shall have the right to inspect and verify the occupancy status of any property for which an exoneration request is made.

An exoneration given for one six-month period shall reduce the yearly fee by 50%. An exoneration given for an entire calendar year shall reduce the fee by 100%.

The Borough of Avoca shall establish administrative procedures for collecting the refuse fee and granting exonerations.

SECTION 11 – PENALTIES

Any person, whether as principal, agent or employee, violating or assisting in the violation of the provisions of this Ordinance or any regulation made by the Avoca Borough Council, under the provisions of this Ordinance, shall be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) and in default of the payment of such fine and costs, upon conviction thereof before a District Justice, may be imprisoned in the Luzerne County Jail for a period of not more than ten (10) days.

Giving false information to Avoca Borough officials in order to avoid or reduce payment of the within fees shall constitute a separate offense which shall be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) and in default of the payment of such fine and costs, upon conviction thereof before a District Justice, may be imprisoned in the Luzerne County Jail for a period of not more than ten (10) days.

SECTION 12 – REPEALER

Any past ordinance, or part or parts thereof, conflicting with any part or parts of this Ordinance are hereby repealed to the extent that they are inconsistent herewith. In all other respects, the ordinances of the Borough of Avoca shall remain as previously enacted and ordained.

SECTION 13 – SEVERABILITY

The provisions of this Ordinance are severable. If any section, sentence, clause, phrase of this Ordinance shall be held illegal, invalid, unconstitutional by any court of competent

jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such invalid or unconstitutional section, sentence, clause or phrase not been included. Furthermore, it is the intent of this Ordinance to be supplementary to, and not contrary to, any laws of the Commonwealth of Pennsylvania or regulations of any of its executive agencies.


SECTION 14 – EFFECTIVE DATE


This ordinance shall become effective immediately upon enactment as provided by law.

PASSED and ENACTED on this 9th day of May, 2024, at the regular meeting of the Avoca Borough Council.


ATTEST:

AVOCA BOROUGH COUNCIL


Sandy Van Luvender
Borough Manager/Secretary


Holly Homscheck
President, Avoca Borough Council

Approved by this 9th day of May, 2024.


Mayor Robert Mullen