

CHAPTER 50: GARBAGE AND REFUSE

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COLLECTION AND DISPOSAL

§ 50.01 [RESERVED.]

§ 50.02 USER FEE FOR COLLECTION AND DISPOSAL OF RESIDENTIAL MUNICIPAL SOLID WASTE.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AEROBIC. Living or occurring only in the presence of oxygen.

BULKY WASTE. A large appliance, piece of furniture or waste material from a residential source other than Freon waste items, construction debris or hazardous waste, with a weight or volume greater than that allowed for containers.

CITY CART. A 96-gallon or 48-gallon wheeled refuse cart, displaying the City Seal on the side, provided by the City of Fort Wayne.

COMPOST PILE. A storage area for a mass of organic waste decaying through an aerobic degradation process under controlled conditions with the intention of using the resulting product as a soil conditioner. Materials in a compost pile include soil, paper products, yard waste, nondairy and nonmeat food products, and/or nonmeat-eating animal waste. A compost pile is kept in an orderly condition to control for odors and to prevent the blowing of debris. A compost pile cannot be a potential transmission agent of disease or be maintained in such a way which will attract vectors, rats, or other vermin.

CURB SIDE RECYCLING. Bi-weekly pick-up of discarded material as specified by the city including but not limited to newspapers, aluminum, glass, steel and plastic containers which can be separated from municipal solid waste for the purpose of recycling, but not including material generated from and commonly reused within an original manufacturing process.

FREON WASTE ITEM. An appliance or other waste item of a type which originally contained Freon or any other nonflammable gaseous or liquid fluorinated hydrocarbons used as a refrigerant, disposal of which is specifically regulated by the United States Environmental Protection Agency (USEPA).

GARBAGE. Putrescible animal or vegetable waste resulting from the handling, preparation,

cooking, serving or consumption of food including food containers.

GARBAGE CAN LINER. Refuse bag designed to be placed in a refuse container or refuse storage container.

HAZARDOUS WASTE. Waste designated as hazardous by the USEPA and/or the Indiana Department of Environmental Management (IDEM).

MOBILE PARK HOME. This term shall be defined consistent with IC 16-41-27-4 and, for the purpose of this section, shall also include such areas containing less than five mobile homes when all other elements of that definition have been met.

OCCUPANT. Any individual, living, sleeping, cooking or eating in or having possession of a dwelling unit.

OWNER. Any one or more of the following:

- (a) The owner or owners in fee simple of a parcel of real estate including the life tenant or life tenants if any; or
- (b) The record owner or owners as reflected by the Allen County Recorder's Office; or
- (c) The purchaser or purchasers of such real estate under a contract for conditional sale thereof; or
- (d) The person or persons in control of the property as the personal representative, trustee, receiver or guardian of the owner.

RECYCLABLES. Items that are intended to be recycled.

RECYCLE. Process by which materials otherwise destined for disposal are collected, reprocessed and remanufactured.

RECYCLING CONTAINER. A container holding recyclables.

REFUSE. Discarded waste materials, in a solid or semi-solid state consisting of garbage, rubbish or a combination thereof.

REFUSE BAGS. Plastic sacks designed for refuse with sufficient wall strength to maintain physical integrity when lifted by top; securely tied at the top for collection, with a capacity not to exceed 33 gallons and a loaded weight not to exceed 35 pounds.

REFUSE CONTAINER. A 96-gallon or 48-gallon city cart or a watertight container constructed of metal or other durable material impervious to rodents and other animals with a tight-fitting lid. Any refuse container, other than a city cart, cannot exceed 33 gallons in capacity unless approved by the City Energy and Environmental Services Department.

REGULAR COLLECTION. The city's designated day for refuse, recycling and yard waste collection.

RESIDENTIAL MUNICIPAL WASTE. This term shall include residential garbage, bulky waste, rubbish and refuse as above defined and shall be interpreted to be consistent with that definition as set out in the Indiana Code with the restriction that wastes from all industrial, office, commercial and institutional establishments are specifically excluded hereunder.

RESIDENTIAL UNIT. A group of rooms located within a building or mobile home and forming a single inhabitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating. This definition also includes complexes containing four or fewer separate or contiguous single-family dwelling units whose owner has not elected to procure commercial waste removal by a registered hauler.

RUBBISH. Non-putrescible solid waste consisting of combustible and non-combustible materials including yard and garden waste but excluding hazardous wastes, infectious waste and tires.

YARD WASTE. Leaves, grass clippings, weeds, brush and other organic garden debris.

(B) Commencing January 1, 1997, the city shall assess a monthly solid waste fee for the service of collection and disposal of residential municipal waste, collection and disposal of residential yard waste and bi-weekly collection of recyclable materials rendered by the city.

(C) Such service and fee shall be rendered only to residential units as above defined, within the confines of the corporate limits of the city. The monthly fee shall be billed to each residential unit and collected in conjunction with other utility services provided by the city. When the utility account covers a building containing greater than one single-family unit, said account shall reflect two monthly fees hereunder. Utility accounts for mobile home parks shall be billed on a 90% occupancy rate.

(D) The fee charged hereunder shall take priority over all other charges for utility services provided by the city. Partial payments shall first be applied to satisfy this service fee. Delinquent accounts shall be handled consistent with other utility accounts under Chapter 51 of this title.

(E) Assessment of this charge may be appealed by any utility user through a petition to appeal residential municipal waste user fee to the Solid Waste Manager along with verifiable documentation showing that said user's residential unit is currently served by an approved refuse collection and disposal service other than that provided by the city. The Solid Waste Manager's determination shall be reviewable by the Director of Public Works. The Director's decision shall be final and appealable. These administrative procedures shall be conducted consistent with IC 4-21.5-3, et seq. No dispute or appeal of said fee shall be a valid reason for non-payment until or unless said charge is deleted from the user's utility account by the city. In such case, any overpayment made hereunder shall be applied as a credit to said user's utility account to satisfy charges for water and sewer usage and/or storm water service.

(F) Proper disposal of Freon waste items shall be the responsibility of the owner thereof.

(1) It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his/her control, any abandoned, unattended or discarded Freon waste item for a period of greater than seven consecutive days.

(2) Failure to properly dispose of a Freon waste item within a seven day period shall constitute a nuisance under this section punishable by a fine of \$50 per violation.

(G) (1) The Board of Public Works shall have the responsibility and authority to adopt rules and regulations governing the implementation of this residential municipal waste collection and disposal program which shall include the authority to appoint an agent for the collection of the charges due hereunder, and may provide for late payment charges, attorney fees and court costs which may be added to other charges due should a delinquency occur on the utility account.

(2) The Board of Public Works shall have the authority to hire and/or contract for such collection and disposal services as provided by IC 36-9-30-8.

(H) The fee and residential municipal waste collection and disposal program established hereunder shall be reviewed at least annually. Said rate system shall be adjusted as necessary to provide sufficient funds to pay any and all contract fees for collection, hauling and/or disposal of such residential municipal waste and all costs incidental to the program, but shall also strive to equitably assess charges in a manner conducive to voluntary recycling.

(Ord. G-53-92, passed 11-24-92; Am. Ord. G-11-94, passed 6-28-94; Am. Ord. G-24-94, passed 10-8-96; Am. Ord. G-25-96, passed 10-8-96; Am. Ord. G-21-98, passed 6-2-98; Am. Ord. G-38-07, passed 12-18-07)

§ 50.03 SEPARATE SOLID WASTE FUND.

Commencing January 1, 1995, the revenues collected by the city from the monthly user fees, any reimbursement for clean-up costs and missed collection liquidated damage penalty fees shall be deposited in a separate, non-reverting, perpetual fund. This fund shall be established for the purpose of accounting and paying for the costs of collecting, disposing, and recycling of solid waste. When necessary, the Common Council may approve additional operating transfers into this fund.

(Ord. G-11-94, passed 6-28-94; Am. Ord. G-38-07, passed 12-18-07)

§ 50.04 REFUSE STORAGE CONTAINERS AND THE STORAGE OF REFUSE.

(A) The city will provide one 96-gallon cart to single family dwellings, and two 96-gallon carts to multifamily dwellings (two - four units). Residences requesting and using a 48-gallon cart shall not set out extra bags or cans, except on an occasional (three - four times per year) basis. The city carts are the property of the City of Fort Wayne and are to remain at the dwelling unit at all times. Any individual who is found transporting carts in their vehicle, or possessing a cart without paying a rental fee will be prosecuted for theft.

(B) Additional refuse storage containers sufficient to meet the needs of the occupant of the dwelling unit shall be provided by the owner of the property. Additional city carts are available for rental through the city.

(C) All refuse (except a compost pile), refuse bags or garbage can liners must be stored in refuse storage containers from the time of generation through noon the day prior to the following week's regular collection day.

(Ord. G-24-96, passed 10-8-96; Am. Ord. G-38-07, passed 12-18-07) [Penalty, see § 50.99](#)

§ 50.05 LOCATION OF REFUSE STORAGE CONTAINERS AND RECYCLING CONTAINERS.

Between days of regular collection for solid waste items, the owner, tenant, lessee occupant, or agent of any property, commercial or residential, shall provide a place to store refuse (including bulky waste), recyclables, and/or yard waste (excluding leaves placed at the curb as part of the city's fall leaf collection) which shall be sheltered from street view, if possible, given lot size and configuration. Compost piles shall be located on the property so as not to be visible from the street whenever possible. Refuse storage containers, compost piles, bulky waste, yard waste, yard waste and/or recyclables must not impede pedestrian or vehicular traffic along sidewalks, alleys, streets and/or other public rights-of-way. If refuse collection is in the alley, refuse storage containers may stay at the alley as long as they do not impede pedestrian or vehicular traffic along the alley and/or public right-of-way.

(Ord. G-24-96, passed 10-8-96; Am. Ord. G-38-07, passed 12-18-07) [Penalty, see § 50.99](#)

§ 50.06 SET-OUT TIME FOR REFUSE CONTAINERS AND RECYCLING CONTAINERS.

(A) All residential garbage, curbside recycling and yard waste collections will be made between the hours of 5:00 a.m. and 11:00 p.m. on the designated collection day. Refuse containers, refuse bags, garbage can liners, bulky waste, recycling containers, and/or yard waste containers (excluding leaves placed at the curb as part of the city's fall leaf collection) shall be set out at the refuse collection site, curbside or alley, on the designated collection day before 5:00 a.m. and no earlier than noon of the day preceding the regular collection day. The refuse containers, refuse bags, garbage can liners, bulky waste, recycling containers, and/or yard waste containers (excluding leaves placed at the curb as part of the city's fall leaf collection) shall be removed from the refuse collection site no later than noon on the day after the regular collection. The owner, tenant, lessee occupant, or agent of any property shall promptly clean up and remove any scattered solid waste, rejected items, recyclable material and/or yard waste (excluding leaves placed at the curb as part of the city's fall leaf collection) from the property before noon on the day after the scheduled date of regular collection. Missed collections that are a result of the contractors' negligence will be an exception to having solid waste materials removed from the refuse collection site no later than noon the day after the regular collection day.

(B) It shall be unlawful and a violation of this section to knowingly dispose of motor oil antifreeze, car batteries, and other toxic materials in with garbage and/or recycling collection.

(Ord. G-24-96, passed 10-8-96; Am. Ord. G-38-07, passed 12-18-07) [Penalty, see § 50.99](#)

§ 50.07 ENFORCING AUTHORITY.

The authority for enforcing this section will be with the Fort Wayne Police Department, the Department of Neighborhood Code Enforcement, the Energy and Environmental Services Department and the Allen County Department of Public Health.

(Ord. G-24-96, passed 10-8-96; Am. Ord. G-38-07, passed 12-18-07)

§ 50.08 UNSAFE BUILDING FUND.

The revenues collected by the city for violation of any provision of §§ [50.04](#) through [50.06](#) shall be deposited into the Unsafe Building Fund.

(Ord. G-24-96, passed 10-8-96; Am. Ord. G-38-07, passed 12-18-07)

§ 50.09 GARBAGE USER FEE.

(A) The solid waste user fee shall be adjusted to a monthly rate of \$7.20 beginning July 1, 1998.

(B) The monthly single family residential household fee shall be \$9.75 per month, effective October 1, 2004.

(C) The monthly two-to-four unit household fee shall be \$19.50 per month, effective October 1, 2004.

(D) The monthly single family residential household fee shall be increased to \$11.24, effective January 1, 2008.

(E) The monthly two-to-four unit household fee shall be increased to \$22.48 per month, effective January 1, 2008.

(F) Residents that choose to rent additional 96-gallon or 48-gallon carts will be assessed a \$2.00 per month fee per cart on their city utility bill.

(Ord. S-89-99, passed 8-10-99; Am. Ord. S-84-00, passed 10-24-00; Am. Ord. G-16-04, passed 8-24-04; Am. Ord. G-38-07, passed 12-18-07)

MANAGEMENT OF YARD WASTE

§ 50.10 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISPOSE. To discard, abandon, cause to be or allow the removal of waste from the site of origination.

LANDFILL. A solid waste management disposal facility as defined by state statute at which solid waste is deposited on or in the ground as an intended place of final location. **LANDFILL** does not include the following:

- (1) A site that is devoted solely to receiving one or more of the following:

- (a) Fill dirt;
 - (b) Vegetative matter subject to disposal as a result of landscaping, yard maintenance, land clearing, or any combination of activities referred to in this division;
 - (c) Construction debris.
- (2) A facility receiving waste that is regulated under IC 13-13-1 et seq.

PERSON. An individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, any consolidated unit of government, political subdivision, state agency, or any other legal entity.

VEGETATIVE MATTER. Any yard or landscaping waste, or land-clearing waste, including leaves, grass, brush, limbs, and branches.

(Ord. G-19-96, passed 8-13-96; Am. Ord. G-38-07, passed 12-18-07)

§ 50.11 YARD WASTE PROHIBITED FROM BEING PLACED IN SOLID WASTE LANDFILLS.

After July 1, 1996, no City of Fort Wayne resident shall dispose of vegetative matter resulting from landscaping maintenance or land-clearing to any solid waste landfill.

(A) Leaves are prohibited from the landfill. In the fall, leaves cannot be placed out with the garbage for collection, loose or in biodegradable lawn bags. Leaves will be collected by the city Street Department loose or in biodegradable paper lawn bags during the fall collection season.

(B) Beginning January 1, 2000, vegetative matter resulting from landscaping maintenance may be set out for garbage collection. Grass clippings and other vegetative matter must be containerized in biodegradable paper lawn bags or refuse storage containers. Tree branches must be cut to three feet in length and placed in refuse storage containers or bundled with string or twine. Bundles cannot exceed 60 pounds in weight. Individual limbs cannot exceed three inches in diameter.

(Ord. G-19-96, passed 8-13-96; Am. Ord. G-38-07, passed 12-18-07) [Penalty, see § 50.99](#)

§ 50.12 CITY UTILITIES YARD WASTE RECYCLING FACILITY.

The Division of City Utilities, through the Board of Public Works, shall annually determine the feasibility of operating a yard waste recycling facility at 5510 Lake Avenue open for use by the public during months when disposal of vegetative matter is a concern. If it is determined such a service should be made available, the Board of Works shall establish the calendar schedule for that year by resolution.

(Ord. G-97-05-29, passed 6-13-97; Am. Ord. G-38-07, passed 12-18-07)

§ 50.13 FEES.

(A) The following fees are established for users of the city's yard waste recycling facility located at 5510 Lake Avenue, when it is deemed feasible to operate a site open to the public:

(1) *Residential.*

(a) \$1.00 for material up to 260 lbs.

(b) \$17.00 per ton if material is 261 lbs. and over.

(2) *Non-residential.* \$17 per ton or with a minimum charge of \$4.00 per vehicle load.

(B) *Commercial billings.* Non-residential users of the yard waste recycling site may establish commercial accounts. Charges shall be computed and billed by the General Office of the City Utilities. Bills shall be rendered approximately monthly. For the purpose of this chapter, a month shall constitute 25 - 35 days.

(C) *Collections, late charges and delinquency.* City Utilities may bring a civil action to recover any delinquent charges together with interest at the statutory rate, the costs and disbursements of said action, reasonable attorney fees and any other remedy prescribed by law. All bills not paid on or before the due date indicated on the bill shall be subject to a collection or deferred payment charge consistent with those assessed to other delinquent City Utilities accounts.

(Ord. G-06-97, passed 6-13-97; Am. Ord. G-16-98, passed 3-24-98; Am. Ord. G-05-99, passed 3-23-99; Am. Ord. G-38-07, passed 12-18-07)

§ 50.14 ENTERPRISE FUND.

Fees generated under § [50.13](#) shall be deposited into an enterprise fund established by City Utilities for the sole purpose of operating the yard waste recycling facility. Funds received from the Allen County Solid Waste District as partial reimbursement of City Utilities operating expenses shall also be deposited to this account. Any shortfall in the enterprise fund necessary to cover City Utilities' operating expenses in connection with the site shall be reimbursed to City Utilities from an appropriate Civil City account.

(Ord. G-06-97, passed 6-13-97; Am. Ord. G-38-07, passed 12-18-07)

COLLECTION OF RECYCLABLE MATERIALS

§ 50.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MANAGER. The Solid Waste Manager of the city.

RECYCLABLE MATERIAL. Ferrous and nonferrous (aluminum) cans, newspapers, glass bottles, aluminum foil and plates, catalogs and magazines, plastics #'s 1 and 2, empty steel paint cans, empty steel aerosol cans, cardboard, fiberboard, and mixed paper.

RECYCLING CONTAINER. The container(s) of any description that display the recycling symbol approved and issued by the Solid Waste Manager.

RESIDENTIAL UNIT. The place of abode of persons living separately or together.

(Ord. G-15-90, passed 7-10-90; Am. Ord. G-21-98, passed 6-2-98; Am. Ord. G-38-07, passed 12-18-07)

§ 50.16 RECYCLING CONTRACTORS AUTHORIZED.

The city, through the Solid Waste Manager, is authorized to designate private solid waste haulers and others as authorized recycling contractors to operate curbside recycling programs within the city.

(Ord. G-15-90, passed 7-10-90; Am. Ord. G-38-07, passed 12-18-07)

§ 50.17 COLLECTION OF RECYCLABLE MATERIALS.

(A) The recycling collection date and recycling collection point for residential units shall be the unit's normal refuse collection date and collection point.

(B) Upon the placement of recyclable material at a designated curbside or recyclable collection location for collection by an authorized recycling contractor, the recyclable waste material shall become the property of the authorized recycling contractor.

(C) During the 24-hour period commencing at 6:00 p.m. on the day preceding a day designated for collection of recyclable material, no person other than an authorized recycling contractor shall remove recyclable material which has been placed in a designated recycling container at a designated recycling collection location. Any and each such removal in violation hereof from one or more designated recycling collection containers placed at a designated recycling collection location during said 24-hour period shall constitute a separate and distinct offense.

(D) Nothing in this subchapter shall limit the right of an individual person, organization or other entity to donate, sell or otherwise dispose of recyclable material.

(Ord. G-15-90, passed 7-10-90; Am. Ord. G-38-07, passed 12-18-07) [Penalty, see § 50.99](#)

§ 50.18 MANAGER TO MAKE RULES AND REGULATIONS.

The Director of the Energy and Environmental Services Department shall have full and complete authority to make such other rules and regulations, not inconsistent herewith, pertaining to the collection and disposal of recyclable material, as well as the administration thereof, as may be deemed advisable.

(Ord. G-15-90, passed 7-10-90; Am. Ord. G-38-07, passed 12-18-07)

ILLEGAL DUMPING

§ 50.19 ILLEGAL DUMPING.

No person, their agent, employee or any person under their control, firm, corporation, or other legal entity shall cause, permit or place any dirt, sand, gravel, clay, stone, rocks, rubbish, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort, or any organic or non-organic material, or other offensive matter to be dumped, deposited or otherwise disposed of in or upon any street, lot, park, public place or other area whether publicly or privately owned.

(Ord. G-04-02, passed 2-12-02; Am. Ord. G-38-07, passed 12-18-07) [Penalty, see § 50.99](#)

§ 50.20 ILLEGAL DUMPING FUND.

An Illegal Dumping Fund is hereby established in the operating budget of the city. This fund shall be established for the purpose of accounting and paying for the costs of cleaning up illegal dumping sites.

(Ord. G-04-02, passed 2-12-02; Am. Ord. G-38-07, passed 12-18-07)

§ 50.99 PENALTY.

(A) Whoever shall violate any provision of this chapter shall, upon conviction, be fined not more than \$2,500. A separate offense shall be deemed committed each day such violation occurs or continues.

(B) Any person, firm or corporation violating any provision of §§ [50.04](#) through [50.06](#) shall be subject to a fine of \$25 for the first violation and \$50 for each subsequent violation over the next 12 months.

(Ord. G-24-96, passed 10-8-96)

(C) Any person who violates or fails to comply with any provision of §§ [50.16](#) through [50.18](#) shall, upon conviction thereof, be fined not less than \$50 and not more than \$1,000. Said fine shall be paid to the city's General Fund.

(D) Any person, partnership, corporation or other legal entity violating § [50.19](#) shall, upon conviction by the court, be subject to a fine of not less than \$500 and not more than \$2,500 for the first violation and \$2,500 for each subsequent violation. Each day the violation occurs or continues to exist shall constitute a separate offense. All fines and costs collected by the city pursuant to this subchapter shall be placed in the Illegal Dumping Fund. Any person who provides evidence leading to the successful conviction of any person under this subchapter may be entitled to an equal portion of 50% of the fines collected from such person, firm, corporation or other legal entity. No city, county, state or

federal employee or their immediate family members shall be eligible to receive a reward pursuant to this program.

(Ord. G-15-90, passed 7-10-90; Am. Ord. G-04-02, passed 2-12-02; Am. Ord. G-38-07, passed 12-18-07)

City of Fort Wayne

ADMINISTRATIVE POLICY

for

Enforcing Chapter 50: Garbage and Refuse

October 1, 1996

The purpose of Chapter 50: Garbage and Refuse is to control the disposal of waste to limit unsightly storage that blights neighborhoods and to prevent sources of habitation and food for vectors, rodents, and other vermin that present a hazard to the public health. To this end, enforcing departments shall attempt to gain voluntary compliance with the requirements of Chapter 50: Garbage and Refuse, and will issue tickets when necessary to attain compliance. The authority for enforcing §§50.04 through 50.19 is with the Fort Wayne Police Department, the Department of Neighborhood Code Enforcement, the Energy and Environmental Services Department, and the Allen County Department of Public Health.

Order of Primary Responsibility for Compliance

Property Owner

The property owner shall be responsible for providing sufficient refuse storage containers for the disposal of refuse (§50.04). If refuse storage containers are absent, inadequate, or not rodent-proof, enforcing authorities shall cite the property owner with a violation.

Property Occupant

The occupant of the property shall bear the primary responsibility for all other aspects of compliance with Chapter 50: Garbage and Refuse. Enforcing authorities shall first cite the occupant (when property can reasonably be assumed to be occupied) for violations other than the provision of proper refuse storage containers.

Rental Property Move-Out Conditions

In recognition that tenants sometimes move out of properties without giving due and proper notice to property owners, special attention shall be given to such situations when issuing citations. Any violations of Chapter 50: Garbage and Refuse, except with regard to the provision of refuse storage containers, shall first cite the occupant as the party with primary responsibility. If the property appears to be vacant with a recent tenant move-out, the property owner shall be given seven days, from when the city is notified of the problem, to comply with any and all violations.

After the property is vacant for seven days, the property owner will be deemed to be the party with primary responsibility for compliance with Chapter 50: Garbage and Refuse and enforcing authorities

shall cite the property owner with appropriate violations.

(Ord. G-38-07, passed 12-18-07)

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