

CHAPTER 51: GARBAGE, JUNK AND RUBBISH

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Cross-reference:

Fire/outdoor burning provisions, see Chapter 95

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JUNK AND GARBAGE

51.01 LEGISLATIVE FINDINGS.

It is hereby determined that there exists on privately owned parcels of land within the village accumulations of junk and/or garbage and that the accumulation of junk and/or garbage constitutes a hazard to the public health, safety and welfare of the residents of the village for the reasons that they provide a habitat conducive to breeding and nesting of rats, mice and other vermin and also that they contain objects with sharp edges and other hazards which could injure small children who would be attracted to play thereon without appreciating the danger thereof, and that the regulations are required to eliminate the foregoing undesirable condition and protect the public health, safety and welfare.

‘ **51.02 DEFINITIONS.**

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

JUNK. Any unused or unusable building materials, furniture, machinery, appliances, toys, bikes or parts thereof, including inoperable motor vehicles, which because of mechanical condition or missing parts cannot be driven.

GARBAGE. Any accumulation of trash, refuse or litter, specifically including but not limited to, containers once containing edible, drinkable or usable materials, as well as dead animals (or parts thereof) and discarded edible or drinkable items.

RUBBISH. Includes, but is not limited to: waste paper, metallic wire, metallic cans, metallic cuttings, boxes, glass, straw, shavings, barrels, lumber, paper cartons, brush, lawn cuttings, plastic ware, plastic cans, plastic cuttings, pallets and hedge trimmings.
(Ord. 130A, passed 6-13-2005)

‘ **51.03 UNLAWFUL ACTS.**

(A) *Storing of junk.* No owner, occupant or possessor of land within the village shall keep or permit to be kept any accumulation of junk thereon which has a total cumulative weight exceeding 40 pounds or a total of cumulative dimension exceeding nine cubic feet unless the same is within a completely enclosed building, not more than two consecutive weeks, 14 days.

(B) *Storing of rubbish and garbage.* No owner, occupant or possessor of land in the village shall keep or permit to be kept any rubbish or garbage unless the same is kept within a closely covered can or other metal, plastic or rubber container designed for same and sufficient to prevent entry by rats, mice and other vermin, not more than two consecutive weeks, 14 days.

(C) *Discarding of junk, rubbish and garbage.*

(1) It shall be unlawful for any person to discard any junk, rubbish or garbage on any

private or public property unless the property is licensed to receive the junk, rubbish or garbage.

(2) Unlawful discarding includes but is not limited to the tossing or leaving of junk, rubbish or garbage along the roadsides, on private property owned by another person, in the public roadway, in parking lots, or on public property not licensed to receive the junk, rubbish or garbage.

(Ord. 130A, passed 6-13-2005) Penalty, see ' 51.99

' 51.04 EXCEPTIONS.

(A) This subchapter does not apply to the inventory or to the property of patrons in or on the premises occupied by a lawful motor vehicle repair facility, furniture or appliance repair facility, or gasoline service station while left on the premises of the business for purposes of service or repair occupied by a merchant licensed under M.C.L.A. ' 205.53 and conducting a lawful business.

(B) This subchapter does not apply to junk yards which can be regulated under Public Act 12 of 1929, being M.C.L.A. ' ' 445.441 through 445.443. This subchapter shall not prohibit maintained composting or compost piles.

(Ord. 130A, passed 6-13-2005)

' 51.05 PRIMA FACIE PROOF.

(A) In any litigation arising under this subchapter testimony that any furniture, machinery, appliance or parts thereof have been observed in the same place for 14 days or more shall constitute prima facie proof that the machinery, appliance or parts thereof are inoperable, unused or unusable as defined in ' 51.02 above.

(B) Likewise, in any litigation arising under this subchapter, testimony that any motor vehicle, or parts thereof have been observed in the same place for a period of 14 consecutive days shall constitute prima facie proof that the motor vehicle or parts thereof are inoperable, unused or unusable as defined in ' 51.02 above.

(Ord. 130A, passed 6-13-2005)

' 51.06 DECLARATION OF NUISANCE.

Any violation of any provision of this subchapter is hereby declared to be a nuisance and the village may institute appropriate court proceedings to enjoin, abate and remove any like nuisance.

(Ord. 130A, passed 6-13-2005) Penalty, see ' 51.99

‘ **51.20 DEFINITIONS.**

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

GARBAGE. Rejected food wastes, including waste accumulation of animal, fruit or vegetable material used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable, and all discarded material that has come in direct contact with the foregoing resulting from handling, processing, storage, preparation, serving and consumption of food.

PERSON. Any natural person, d/b/a entity, partnership or corporation.

RUBBISH. Includes trash, discarded parts, debris, ashes and other residential, commercial or industrial waste materials, including discarded appliances and large items and other materials generally, including articles, parts or materials ordinarily and customarily disposed at sanitary landfills or incinerators.

(Ord. 132A, passed 6-13-2005)

‘ **51.21 GARBAGE COLLECTION; LICENSE.**

(A) It shall be unlawful for any person to engage in the business of collecting garbage/rubbish in the village without first paying the license fee and obtaining a license therefor as hereinafter provided.

(B) Whenever any contingency shall, in the judgment of the village make action necessary or advisable, the Council may, either by advertising for bids, or otherwise, enter into a contract or contracts with the mutual consent of the licensee, or extend the term thereof, with, and grant a license or licenses to the person as the Village Council may deem able to collect garbage in the village in accordance with the best interests of the village and its residents.

(C) The contract or contracts:

(1) Shall be for the term as the Council of the village shall fix;

(2) Shall contain an agreement by the licensee to collect garbage/rubbish from all residents of the village or the residents as specified by the Village Council, in accordance with the provisions of this subchapter; and

(3) May be, but need not be exclusive.

(D) The Village Council may authorize the making on the part of the village of one or more contracts and may limit the contract to a certain part or parts of the village or to certain classes of customers. The Village Council shall grant a license to collect garbage/rubbish in the village for the period of the contract upon the payment of a license fee therefor, which shall be set by resolution of the Village Council. The fee shall be payable annually.

(E) The Village Council shall:

(1) Make the rules and regulations governing the operation of the business of garbage/rubbish collection, as it may deem necessary; and

(2) Revoke the license of any garbage/rubbish collector who fails to abide by any like rule or regulation adopted by the Village Council, or any provision of this subchapter. Written notice of violations of any like rule or regulation shall be remitted to the licensee and the licensee shall have a reasonable opportunity to correct the violation. Prior revocation of a license shall be sufficient ground for the village's refusal to certify any future application by the licensee, in that case, all license fees which have been paid shall thereupon be forfeited.

(F) The Village Council may provide in the contract with the licensee the following conditions:

(1) Termination of services and revocation of the license;

(2) Reinstatement of service after same has been terminated;

(3) Short cancellations of service for periods of time when a residence will be unoccupied;

and

(4) Other provisions which, in the opinion of the Council, are deemed desirable to carry out the intent of this subchapter.

(G) A commercial or Industrial licensee operating without a contract but under a license shall pay an annual license fee as established by the Village Council to defray administrative costs for issuing and enforcing licenses. Any residential garbage/rubbish collection done without a license and a contract will forfeit any payment for services by the village.

(H) No license or contract granted or entered into under the provisions of this subchapter shall be transferable or assignable without the permission of the Village Council expressed in the form of a resolution.

(Ord. 132A, passed 6-13-2005) Penalty, see ' 51.99

' 51.22 DUTIES OF USERS.

(A) All residential dwelling units, commercial establishments and industrial businesses in the village shall be required to utilize a garbage/rubbish collection service from a licensed collection service that the Village Council approves by resolution.

(B) Each residential user shall:

(1) Utilize any containers provided for in the license permit granted to the garbage/rubbish collection service if the resident would choose. If not, the residential user shall provide a suitable garbage/rubbish container or containers, not to exceed a total of 90 gallons of capacity, free from leaks and with suitable covers or suitable commercial or residential garbage bags, not to exceed 90 gallons of capacity;

(2) Receive garbage/rubbish collection service under and by virtue of the provisions of this subchapter and be obligated to pay for the services billed by the village. Each residential unit is designated as a user;

(3) Keep all garbage/rubbish containers and bags on his or her premises in a sanitary and serviceable condition. It shall be unlawful for any person to permit any garbage/rubbish containers or bags on his or her premises to become unsanitary or to maintain the same in a condition that it becomes a nuisance, or to load any bag beyond its rated capacity of the same; and

(4) Will be allowed a maximum of 90 gallons of garbage/rubbish per week. Volume in excess of this limit may be subject to a surcharge. Additional garbage/rubbish may be placed for pick-up by the garbage/rubbish collection service, provided:

(a) It is suitably contained, i.e.: wooden boards must be no greater than four feet in length and tied into bundles not to exceed 100 pounds in weight; and

(b) Large home items such as furniture and appliances may be included only after making prior arrangements with the village office at least 36 hours before the scheduled pick-up time.

(C) Each commercial and each industrial user shall use suitable bins provided by the contractor or if none is provided, the user shall provide a suitable bin or bins.

(Ord. 132A, passed 6-13-2005) Penalty, see ' 51.99

' 51.23 LICENSEE AND COLLECTORS; DUTIES.

(A) The licensee shall furnish all users with garbage/rubbish collection service as provided for herein and as provided under the terms of any contract made between the village and the licensee.

(B) No person shall:

(1) Engage in the business of collecting, transporting or disposing of any animal, vegetable or kitchen refuse except a person licensed therefor in accordance with ' 51.21 above; or

(2) Engage in the business of collecting, transporting or disposing of any other form of garbage/rubbish whether or not herein defined as Agarbage@ or Arubbish@ without first obtaining a license therefor.

(C) Licenses shall be issued upon application to the Village Clerk on forms provided by the village and upon payment of the fee as shall be established by the Village Council.

(D) The licensee shall:

(1) Provide to the village a telephone service and shall provide someone to regularly answer the same during normal business hours; and

(2) Dispose of all garbage/rubbish in such a manner, as not to create a public or private nuisance and as required by any county, state or federal laws and regulation.

(E) The licensee of all garbage/rubbish trucks used chiefly for residential collection shall:

(1) Have metal covered bodies equipped with mechanical loading devices on all the vehicles;

(2) Have a sign containing the name of the licensee, the telephone number and the number assigned on both sides of all the vehicles, all of which shall be marked with plain visible letters not less than four inches in height;

(3) Submit the vehicles to inspection by the village or its agents at all times requested; and

(4) Keep all the vehicles in a sanitary condition.

(Ord. 132A, passed 6-13-2005) Penalty, see ' 51.99

' 51.24 PERIODS OF COLLECTION; METHODS.

(A) All garbage/rubbish shall be collected by the licensee at least once each week from residential users in the village, with at least three days intervening between collections, except upon those occasions when conditions beyond the control of the licensee make it impractical; and collections from other users shall be as provided in the license or more frequently if agreed upon by the licensee and the user.

(B) All collections of garbage/rubbish in the residential sections of the village shall be made between the hours of 6:30 a.m. and 6:30 p.m. and shall be made at curbside unless other arrangements are made by the user. All containers and bags shall be so handled and emptied so that no garbage is spilled on the premises of the user or in any street area.

(Ord. 132A, passed 6-13-2005)

' 51.25 RATES FOR SERVICE.

(A) The contract provided in ' 51.21 above shall fix the rate per user to be charged for the garbage/rubbish service provided in this subchapter and the rates shall be consistent with good service and the protection of the public health. The village shall negotiate rates for residential service only, with rates for commercial and industrial service to be negotiated directly between licensee and the particular user.

(B) The village shall bill each user the actual costs of garbage/rubbish collection together with a reasonable administrative fee for administering the provisions of this subchapter including but not limited to enforcement actions, billings, inspections and general administrative duties. Bills may be sent out quarterly. For an additional service charge, bills may be sent out monthly after the user has signed and returned a contract form to the village. Responsibility and liability for the payment of the bills shall rest with the owner of the unit. The bills shall constitute a lien on the property of the owner, and in the event that the bill remains unpaid the same may be added to the real property tax bill of the property and collected in the same manner as real property taxes and special assessments are collected by the village. The bills shall be added to the tax rolls between May 1 and May 31 of each year.

(Ord. 132A, passed 6-13-2005)

' 51.26 USER LIMITS.

Each single-family dwelling shall maintain garbage service under this subchapter and be considered a user. Each unit within a multi-family dwelling shall maintain garbage service under this subchapter and be considered a user. No residential users may share garbage service under this subchapter.

(Ord. 132A, passed 6-13-2005)

' 51.27 TRANSPORTATION OR CARTAGE OF GARBAGE.

The licensee shall load all garbage/rubbish collected so that as soon as any compartment of the licensee=s vehicle is filled the same shall be immediately covered so as not to let garbage spill.

(Ord. 132A, passed 6-13-2005)

‘ **51.28 LIABILITY OF LICENSEE.**

Any licensee shall pay any and all claims or judgements made, allowed or obtained against the village, either alone or jointly with the licensee, and otherwise hold the village harmless from liability on account of any injury or damage to person or property by reason of any acts or omissions of licensee hereunder, and the licensee shall intervene and defend any claim, suit or action upon written notice thereof given by the Clerk of the village to the licensee.

(Ord. 132A, passed 6-13-2005)

‘ **51.29 INSURANCE; LIABILITY.**

All licensees hereunder shall carry automobile property damage and personal liability insurance with the village as a named insured and in amounts as shall be approved by the Village Council.

(Ord. 132A, passed 6-13-2005)

‘ **51.30 WORKER=S COMPENSATION LAW AND INSURANCE.**

All licensees under this subchapter during the time that they are so licensed shall become subject to the Worker=s Compensation Law, being M.C.L.A. ' ' 418.101 through 418.941, of the state and shall carry Worker=s Compensation Insurance as required by law.

(Ord. 132A, passed 6-13-2005)

‘ **51.31 AUTHORITY OF VILLAGE COUNCIL.**

Authority to inspect, investigate and report on the service rendered by any licensee in the collection delivery and disposal of garbage/rubbish is hereby given to the Village Council or its authorized agent.

(Ord. 132A, passed 6-13-2005)

‘ **51.32 PROHIBITED CARTAGE OF GARBAGE.**

It shall be unlawful for any person to:

(A) Carry the same in cans, wagons or vehicles which are not free from leaks;

(B) Allow any garbage/rubbish to drift or fall on any street or public place;

(C) Dump or dispose of any garbage on any vacant lot or open premises, within the limits of the village;

(D) Transport, carry through or allow to blow/litter on the streets of the village; or

(E) Any garbage/rubbish in any wagon or vehicle, unless the garbage is thoroughly covered with a metal cover.

(Ord. 132A, passed 6-13-2005) Penalty, see ' 51.99

' 51.33 COMPLAINTS.

(A) The Village Council shall by the terms of any contract between the village and any licensee provide for the proper and orderly handling of any complaints including the failure in service or that the licensee is not complying with the provisions of the contract and this subchapter.

(B) All complaints by any user may be referred to:

(1) Clerk of the village;

(2) The Department of Public Works; or

(3) Official of the village designated by the Village Council, by resolution for investigation for the purpose of determining whether there has been any violation of any of the provisions of this subchapter. Any proceedings for the enforcement of this subchapter may be instituted by the Village Council, police officer or Village President but nothing contained herein shall be construed as foreclosing any person from seeking private redress or filing his or her own complaint in any court for violation of this subchapter.

(Ord. 132A, passed 6-13-2005)

' 51.99 PENALTY.

(A) Any person who violates the provisions of ' ' 51.01 through 51.06 shall be deemed responsible of a Level C civil infraction defined in Chapter 11, and upon a finding of responsible, shall be subject to the penalties defined therein.

(B) (1) Any person who violates the provisions of ' ' 51.20 through 51.33 shall be deemed responsible of a Level A civil infraction defined in Chapter 11, and upon a finding of responsible, shall be subject to the penalties defined therein.

(2) Any person who violates the provisions of any other section of ' ' 51.20 through 51.33 shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not exceeding \$500 or by imprisonment in the county jail for a period of not exceeding 90 days, or both the fine and imprisonment in the discretion of the court.

(3) The foregoing remedies shall be in addition to the rights of the village to proceed at law or equity with other appropriate and proper remedies. Any continued violation, after notice to the licensee or user, shall be deemed a public nuisance, and may be abated by suit in equity by the village in any court of competent jurisdiction. This remedy shall be in addition to those herein provided for.

(Ord. 130A, passed 6-13-2005; Ord. 132A, passed 6-13-2005)