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ARTICLE 951
Refuse Collection

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CROSS REFERENCES

- Power to regulate - see W. Va. Code 8-12-5(10) et seq.
- Placing material in streets - see TRAF. 311.01
- Loads dropping or leaking - see TRAF. 347.04

COLLECTION BY CITY; GENERAL PROVISIONS

951.01 DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Ashes" means the residue from the burning of wood, coal, coke or other combustible material.
- (b) "Dwelling unit" means any closed-in area used as the principal place of residence for one family or one individual in which water or sewer service is provided and food may be prepared or eaten.
- (c) "Approved container" means a metal or plastic container, which is portable, watertight, equipped with handles and tight-fitting lid, and has a capacity of not less than ten gallons nor more than thirty-two gallons, which when full, shall not have a total combined weight of contents and container of more than seventy-five pounds.
- (d) "City" means employees of the City Public Works Department or the authorized representative of the City.
- (e) "Garbage" means all matter, solid, liquid or mixed, which attends, is created or accumulates within the City from the preparation, cleaning, cooking, use, storage or sale of any matter designed or intended as foodstuff for human consumption. Such term shall also include tin cans, bottles and other containers from which food or foodstuffs have been removed.
- (f) "Occupant" means any person residing in, renting, leasing, occupying, operating or transacting business in any premises.
- (g) "Premises" means every residence, household, apartment, trailer court, motel, hospital, nursing home, hotel, restaurant, cafe, market, wholesale or retail store, establishment or place of business in the City in which garbage or trash accumulates.
- (h) "Refuse" means garbage and rubbish collectively.
- (i) "Residential premises" means single-family dwellings, duplexes, apartments and trailers.
- (j) "Rubbish" means all normal wastes resulting from the use or occupancy of any premises such as ashes, brush, grass, leaves or other similar substances, but does not include any building material, industrial waste, containers described in the definition of garbage, waste of a dangerous or explosive nature, or human or animal excreta.
- (k) "Litter" means the disorderly accumulation of objects, especially discarded waste material or scraps.
(Ord. 7-22-85)

951.02 KEEPING OF GARBAGE AND RUBBISH ON PREMISES PRIOR TO REMOVAL.

Tree, bush and bush trimmings intended for removal shall be tied in bundles not exceeding forty-eight inches by eighteen inches in size, shall not exceed seventy-five pounds in weight and need not be placed in containers. All other garbage and rubbish shall be placed in approved containers.

Every occupant of premises from which garbage and rubbish are to be removed shall deposit all garbage and rubbish in such containers as shall prevent the same from being scattered or blown upon any other premises or public ways in the City to cause litter. The City shall pick up uncontained garbage and rubbish monthly.
(Ord. 10-23-95)

951.03 COMBINING GARBAGE AND RUBBISH.

The occupant of any premises may combine rubbish with garbage in any approved container. (Ord. 7-22-85)

951.04 CITY NOT TO COLLECT CERTAIN ITEMS.

(a) The City shall not collect, remove or dispose of the following types of refuse: hot ashes, offal, sewage, animal excreta, waste of dangerous or explosive nature or material resulting from the demolition, repair, alteration or erection of buildings or structures. Such material in this section shall not be placed in approved containers used for collection by the City. Provided, that animal excreta may be collected so long as the same is placed within a sealed plastic bag and which bag is placed within another sealed plastic bag and placed in an approved container used for collection by the City.

(b) No person shall place used needles, syringes or bio-hazardous materials in refuse containers or bags for collection by the City.
(Ord. 11-13-01)

951.05 COLLECTION AND DISPOSAL.

(a) Except as otherwise provided in this section, refuse collection services for all dwelling units within the limits of the City, exclusive of multifamily dwellings containing five or more units, shall be provided by the City. The City may, at its option and subject to the provisions of Section 951.04, provide refuse collection and disposal services to any person, firm, corporation or governmental entity owning any multifamily dwelling containing five or more units, owning or operating any commercial enterprise or carrying out any governmental function within the City.

(b) All persons, firms, corporations and governmental entities owning any multifamily dwelling containing five or more units, owning or operating any commercial enterprise, or carrying out any governmental function within the City shall provide for the removal of garbage and rubbish from their premises by contracting with a refuse hauler licensed by the State, or, may contract with the City for the removal of garbage and rubbish from their premises, provided, that the City agrees to and is in a position to provide such services, and further provided, that all such contracts entered into by and between the City and such persons, firms, corporations and governmental entities shall contain uniform provisions including, but not limited to, uniform terms, conditions, rates and charges.

(c) No person, firm, corporation or governmental entity shall allow upon any property owned or occupied by the same and upon any public or private right of way abutting such property, the deposit, presence or accumulation of garbage or rubbish except for any period of time as may be necessary for the removal of such garbage or rubbish as required in this article or as may be required under any rules and regulations promulgated pursuant to this article.

(d) The City shall have the right to deny refuse or solid waste collection and disposal services or assess a special charge to any person or entity whose solid waste requirements are abnormally large or peculiar in the opinion of the Health Officer or the Director of Public Works so as to justify special handling. Any special charge shall be set by the Director of Public Works and shall be reasonable under the circumstances. Circumstances justifying special handling may include but are not limited to problems of accessibility to the collector, major construction or demolition wastes; the presence of excrement, sewage, animal carcasses or other substances which may pose a serious threat to the public health; or the generation of more than four containers of fifty gallon capacity of refuse or the equivalent thereof per week.

(e) All persons receiving refuse collection services from the City of Huntington shall not place refuse on the curb prior to 6:00 p.m. of the day prior to the scheduled refuse pick-up. All refuse shall be placed in a plastic bag not weighing more than forty pounds and subsequently placed within a hard container and placed at the curb for pick-up.
(Ord. 11-13-01)

951.06 POWERS AND DUTIES OF THE MAYOR.

The Mayor shall supervise, see to and provide for the control of the storage, collection, removal and disposal of all refuse which accumulates within the City and shall enforce or cause the enforcement of the provisions of this article. For the purpose of carrying out the spirit and intent of this article in supplementation thereof, the Mayor is authorized to promulgate such rules, regulations and orders on behalf of the City relating to the efficient storage, collection, removal and disposition of refuse and litter as he shall deem necessary for the health, safety and sanitary requirements of the public. Such rules, regulations and orders without limitation on the generality thereof shall have the same force and effect as if specifically set forth in this article. (Ord. 7-22-85)

951.07 POWERS AND DUTIES OF DIRECTOR OF HEALTH DEPARTMENT.

In order to promote the highest possible standards of health, sanitation and safety of the residents of the City, the Director of the Cabell-Huntington Health Department is authorized and directed to cooperate with the efforts of the Mayor in the enforcement of the provisions of this article.
(Ord. 7-22-85)

951.08 SERVICE FEE; POWERS OF DIRECTOR OF FINANCE; PENALTIES FOR NON-PAYMENT; EFFECTIVE DATE.

(a) There is hereby imposed upon all users of the refuse collection and disposal services provided by the City a fee of fifteen dollars (\$15.00) per month per dwelling unit.

(b) When the aggregate gross income of all persons residing in a dwelling unit during the preceding calendar year was less than fourteen thousand dollars (\$14,000), the rate for refuse disposal services to such dwelling unit shall be reduced to five dollars (\$5.00) per month, provided, that, the resident or residents who occupy such dwelling unit make an application for such rate to the Director of Finance and file therewith an affidavit pertaining to the relevant facts. The rate and charges shall become effective with the first quarterly billing after the filing of the affidavit. The City may require any applicant to provide documentation to verify income declarations set forth in affidavit. Failure to provide documentation requested shall render applicant ineligible for the reduced rate. Further, to qualify for the reduced rate, applicant shall not be in arrears on any prior refuse billings.

In the event any person making application for reduced charges shall submit any false, erroneous or untrue information relative to the eligibility or qualifications of the applicant for such reduced charges as set forth herein, any such person supplying such false, erroneous or untrue information shall be subject to a penalty equal to one hundred fifty percent (150%) of a full year's unreduced rate then in effect in addition to any penalties provided for in this section.

(c) The Director of the Division of Finance, with the approval of the Mayor, may make such other provisions as he or she may deem necessary or proper, consistent with this article, for the billing and collection of charges for services, provided, that, the Director shall bill all property owners receiving services for such services for the fee imposed herein on a quarterly basis. All property owners that are users of such services shall remit payment of the fee imposed herein within the time period prescribed on the bills issued by the Director.

The Director of the Division of Finance may prescribe such forms and records as shall be used for the collection and accounting of all fees for any and all services rendered under this article, with the authority to require any and all persons responsible for such collection and accounting to comply with same.

(d) Any person, firm, corporation or other entity who violates any of the provisions of this section shall be subject to the penalties set forth in Section 951.99(a) or (b) of this article. Compliance Officers and Fire Marshals are authorized to issue citations for violations of any provision within Article 951. Police Officers are authorized to issue citations and seek arrest warrants for any violations of the provisions of Article 951.

(e) Each installment of the refuse collection and disposal service fee imposed herein shall be due and payable within thirty (30) days of the date the bill is sent. Bills not paid within thirty (30) days of their issuance shall be considered and treated as delinquent. There shall be added to each delinquent account a penalty of five percent (5%) of the balance thereof on the thirty-first day after the bill has been sent. Thereafter, a penalty of five percent (5%) shall be added to the total outstanding balance at the end of each billing period.

(f) The provisions of this section shall become effective April 1, 2002, and shall remain in full force and effect until further ordinance of Council.
(Ord. 3-25-02)

951.09 RIGHT OF ENTRY FOR INSPECTION OF PREMISES.

For the purpose of carrying out the duties and responsibilities imposed upon them by the terms of this article, the Chief Executive Officer, the Director of the Cabell-Huntington Health Department and their designated representatives shall be authorized to enter upon and inspect any premises at reasonable hours.
(Ord. 7-22-85)

951.10 THROWING OR SCATTERING GARBAGE OR RUBBISH.

No person shall throw, place or scatter any garbage, rubbish or other refuse over or upon any premises, street or alley, either public or private, or adjacent thereto, either with or without the intent to later remove such garbage, rubbish or other refuse, or to suffer or permit any premises owned, occupied or controlled by such person to become or remain offensive, littered, unsanitary, unsightly, unsafe or hazardous to public health from the accumulation of garbage or rubbish.
(Ord. 7-22-85)

951.11 FEEDING OF GARBAGE.

No person shall feed garbage not originating on his own premises to any animal or fowl within the City. (Ord. 7-22-85)

951.12 BURNING GARBAGE.

No person shall burn any garbage, except in standard domestic or commercial incinerators of a type approved by the National Fire Protection Association to comply with the regulation of the Department of Natural Resources and the State Air Pollution Control Commission.
(Ord. 7-22-85)

951.13 BURNING RUBBISH.

No person shall burn any rubbish or industrial or commercial waste except in the manner specified in the Fire Prevention Code and any other fire prevention ordinances of the City.
(Ord. 7-22-85)

951.14 REMOVAL OF GARBAGE BY HOTELS, RESTAURANTS AND RETAIL FOOD STORES.

Any person owning, keeping or operating any hotel, restaurant, boardinghouse or retail food store within the City shall remove all accumulated garbage or offal at least once in every twenty-four hours; and no such person shall permit any garbage, swill or offal to collect and remain at or about his premises or in any public street or alley within the City for a period of more than twenty-four hours at any one time; provided, that from November 1 to April 1 of each year, such period of removal may be extended to once every forty-eight hours.
(Ord. 7-22-85)

951.15 UNLAWFUL ACTS.

No person within the City:

- (a) Shall keep or maintain on any premises any garbage or rubbish intended for removal or collection therefrom in any manner other than that prescribed by this article.
- (b) Except when contained in one or more vessels meeting the requirements of this article and left for the purpose of collection at a place designated by rule, regulation or order of the Mayor, shall throw, dump, drain or leave any garbage, paper, cans, bottles, rubbish or litter of any kind or nature whatsoever in, on or about any public or private street, alley, court, lane, way, thoroughfare, lot, lands, dump, premises or vehicle, whether such points, places or objects enumerated in this subsection are under the ownership or control of such person or another.
- (c) Shall empty, place or dump any garbage which is not mechanically or thoroughly ground into any public or private sewer or stream of any connection therewith.
- (d) Except for the City or for private collectors that are certified by the State Public Service Commission, shall engage in or conduct the business of collection removal or disposal of solid waste within the corporate limits.

- (e) Being the holder of a private refuse collector's license or his agent or employee, shall fail or refuse to comply with and abide by any duty, provision, term, covenant, prohibition or agreement required of licenses under the provisions referred to in this article.
- (f) Shall cause or permit any vehicle containing garbage to stand upon any street, alley or thoroughfare within the City, except when in actual use in receiving or loading garbage.
- (g) Shall maintain, collect, receive, remove, transport, convey or dispose of any garbage or rubbish in such manner or by such means as to constitute a public or private nuisance or to constitute a source of injury or damage to the person or property of another.
- (h) Shall transport any garbage or rubbish in any manner except in a vehicle or container equipped so as to prevent the flowing or dropping off of any of the contents on the public streets or ways of the City or private property therein.
- (i) Shall fail or refuse to comply with any other duty or requirement of this article or to do or perform any other act or thing prohibited by the provisions and terms of this article.
(Ord. 7-22-85)

951.16 DISPOSAL IN ANOTHER PERSONS CONTAINER PROHIBITED.

(a) No person shall dispose of garbage, trash or other refuse by dumping it into any dumpster or container located on any property other than that on which such garbage, trash or other refuse was produced. The consent of the property owner on which the waste is disposed of shall be irrelevant under this section.

No person shall place garbage, trash or other refuse contained in a garbage bag or other disposable container on a street, alley, way or other point usually used as a pick up point by the Sanitation Department when such person has not paid a refuse fee for that particular pick up point.

(b) This section shall not apply in such manner as to disallow the use of one central dumpster or collection station where a building or set of adjoining buildings owned by the same person or association and used for a similar purpose is located on one or more parcels.

(c) No person shall scavenge or withdraw any substance from a dumpster, trash can or other trash or refuse container located on private or public property for the purpose of converting such substance to his or her own use.
(Ord. 4-28-86)

PRIVATE REFUSE COLLECTORS

951.17 PERMITS; APPLICATION.

The Mayor is authorized to issue permits to private refuse collectors to operate within the City in such number as he deems appropriate for the preservation of the public health, safety, welfare and economy of the City; provided, that no such permit shall be granted unless the person seeking the same shall file with the Mayor an application setting forth or accompanied by the following information, representations and stipulations:

- (a) The name and address of the applicant.
- (b) The name of any person other than the applicant interested in the proposed business function of garbage and rubbish collection.

- (c) The type of vehicle to be used, which shall consist only of a motor-propelled vehicle. If such vehicle is to be used for the collection of liquid or semiliquid garbage, then it shall be equipped with, and such garbage shall be deposited in, either a watertight metal tank or one or more watertight vessels for containing garbage, either, both or all of which shall be equipped with tight, close-fitting lids or covers. Except when necessary for the filling or emptying thereof, such tank or vessel and such lids or covers shall be kept in place at all times, and none thereof when containing any liquid substance shall ever be filled to an extent greater than a point six inches from the top thereof. If the vehicle is to be used for the hauling of rubbish or solid garbage, then it may be equipped with a body of any type which insures against the spilling, dropping or blowing of the contents thereof upon the streets, alleys or public ways of the City.
- (d) The places where any garbage or refuse collected will be disposed of, which places of disposal shall be subject to the approval of the Mayor and shall in no event be at or upon any place which will constitute a public or private nuisance.
- (e) A covenant, signed by the applicant, signifying that he will comply with all applicable laws, ordinances, rules and regulations.
(1964 Code Sec. 16-19)

951.18 PERMIT ISSUANCE.

Upon being satisfied that any applicant referred to in Section 951.17 is able to comply with all the terms, conditions and requirements of this article and any rules, regulations and orders issued pursuant hereto, together with all covenants and agreements contained in an application therefor, the Mayor may grant a private refuse collectors' permit to such applicant to collect, remove and dispose of all garbage or rubbish from the premises of the permittee's customers. (1964 Code Sec. 16-20)

951.19 PERMIT TRANSFERABILITY; EXPIRATION.

No private refuse collectors' permit shall be transferable without the written approval of the Mayor. Every such permit shall expire on December 31 in the year in which the same is issued and while in effect shall be at all times in the possession of the permittee or his agent or employee acting thereunder. (1964 Code Sec. 16-21)

951.20 PERMIT REVOCATION.

In the event of the failure of any permittee under this article to comply with any provision or requirements of this article or any rule, regulation or order put into effect by the Mayor as provided in this article, the Mayor shall be and he is empowered to revoke the permit of such licensee forthwith and give notice to such effect by mail addressed to such permittee at the address specified in the application for the permit; provided, that in the event of such revocation of a private refuse collectors' permit by the Mayor, the permittee shall have the right to appeal from the Mayor's action to Council. (1964 Code Sec. 16-22)

951.21 DISPOSAL OF GARBAGE AND REFUSE; FEES AND CHARGES.

Private refuse collectors and other persons authorized to dispose of garbage and rubbish in conformity with law shall be required to pay to the City for such privilege the sums hereinafter provided, which such disposal fees shall, in all events, be subject to a minimum charge of five dollars (\$5.00) for any disposal.

The Director of the Division of Finance shall continue to set aside one dollar (\$1.00) per ton in the present Special Reserve Fund account heretofore established to provide funds for the acquisition of new land for landfill purposes or for other technologically and environmentally approved methods for disposal of garbage and refuse. He shall continue to maintain such Fund at its present level of five hundred seventy-two thousand dollars (\$572,000) except as hereinafter provided. Disposal privilege fees (service fees) shall be collected in accordance with the following schedule, subject to the minimum charge set out above:

- (a) From January 1, 1991, until February 28, 1991, the fee shall be fifteen dollars (\$15.00) per ton for refuse originating inside the corporate limits of the City and twenty dollars (\$20.00) per ton for refuse originating outside the corporate limits of the City.
- (b) From March 1, 1991, until May 31, 1991, the fee shall be twenty dollars (\$20.00) per ton for refuse originating inside the corporate limits of the City and twenty-five dollars (\$25.00) per ton for refuse originating outside the corporate limits of the City.
- (c) From June 1, 1991, until August 31, 1991, the fee shall be twenty-five dollars (\$25.00) per ton for refuse originating inside the corporate limits of the City and thirty dollars (\$30.00) per ton for refuse originating outside the corporate limits of the City.
- (d) From and after September 1, 1991, the fee shall be thirty dollars (\$30.00) per ton for refuse originating inside the corporate limits of the City and thirty-five dollars (\$35.00) for refuse originating outside of the corporate limits of the City.

In addition to the amendments to the per ton charges contained herein, effective January 1, 1991, a surcharge of two dollars and sixty cents (\$2.60) per ton shall be charged all persons disposing of refuse pursuant to this section.

Such charges as hereinbefore set forth shall be paid by all persons as aforesaid, both inside and outside the corporate limits of the City; provided, however, that the aforesaid fees shall not apply to any municipality or business concern with whom the Mayor may enter into an agreement, contract or understanding relating to the use of such facilities with approval of Council; but, in lieu thereof, such municipality or business concern shall pay such amount or amounts as may be negotiated, agreed upon and determined by the municipality or business concern and Council as aforesaid. All such funds above the current rates shall be deposited in a special landfill reserve account invested at the best prudent rate of return available. These funds shall be dedicated to use in closing the Huntington Municipal Landfill, or if there are excess funds available, they may be used to purchase or open a new landfill site or new waste disposal equipment as approved by Council.

All solid waste, as defined in West Virginia Code 20-9-2(g), generated within the corporate boundaries of the City shall be deposited in the City Landfill unless prior consent, in writing, is granted by the City administration.

Any such private refuse collector or other person who, in order to defeat, evade or otherwise thwart the payment or collection of the service fees established for City-owned disposal places, knowingly misinforms or provides false information to any municipal employee who requests or requires information of such collector or person to enable such employee to determine the applicable service fees payable hereunder shall be guilty of a violation of this section and shall be subject to the civil and criminal penalties provided in Section 951.99.

The rates hereinbefore established may hereafter be changed from time to time by resolution of Council without the necessity of modifying or amending this section.
(Ord. 12-27-90)

951.22 PUBLIC SERVICE COMMISSION APPROVED HAULERS.

The following rules shall apply to private trash and refuse haulers operating under Section 951.15(d):

- (a) All Public Service Commission approved haulers operating within the City on June 1 of each year shall submit by July 1 of that year a complete list, including names and addresses, of all municipal customers serviced by the hauler on June 1 of that year. Said list shall be submitted to the office of the Director of the Division of Finance and shall be authenticated by the signature of the approved hauler.
- (b) If a private hauler is operating within the City, it shall be the responsibility of that hauler to remove all trash and refuse surrounding each dumpster and container serviced by it. This removal of trash and refuse shall be administered every time that the dumpster or container is emptied, but such clean up shall only apply to trash and refuse accumulation caused by the presence of such containers.
- (c) Each dumpster shall be closed or covered over in a manner so as to promote sanitary conditions and to prevent leakage or escape of trash or refuse.
- (d) The use of dumpsters by private haulers shall at all times be subject to the rules and regulations promulgated from time to time by the Mayor and on file with the City Clerk.

(Ord. 4-28-86)

951.99 PENALTY.

(a) A penalty of ten percent (10%) of the stated fee shall be added for failure to pay the installments due on the specified dates. Additionally, or in the alternative, any person, firm, corporation, governmental entity or other entity violating any provision of this article for which no other penalty is provided shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.

(b) If any person shall violate or cause to be violated any provision of Article 951 they shall be subject to a fine of not more than five hundred dollars (\$500.00) and/or up to thirty days in jail.

(Ord. 11-13-01)