NOTICE

This City of Kettering Code section is not the official version and is provided only for the convenience of the public. The only official version of the City of Kettering Code is available through the office of the Clerk of Council, located in the City of Kettering Government Center, 3600 Shroyer Road, Kettering, Ohio 45429.

This version may, occasionally, differ from the official version and should only be relied upon for general information purposes. Any errors or omissions should be reported to the Clerk of Council. In no event shall the City of Kettering be held liable for damages of any nature, direct or indirect, arising from the use of this service or reliance on this unofficial document.

CHAPTER 943
SOLID WASTE AND RECYCLING COLLECTION AND DISPOSAL

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CROSS REFERENCES

Collection and disposal of garbage - See Ohio R.C. 715.43, 717.01
Loads dropping, leaking or shifting - See TRAF. 440.06
Obstructing water courses - see GEN. OFF. 660.03
Deposit of garbage and rubbish - see GEN. OFF. 660.17
Ratproofing required - GEN. OFF. 660.19

943.01 DEFINITIONS.

Whether or not capitalized, as used in this chapter:

(a) "Collection Agent" means the person or entity with whom the City has contracted for the collection of solid waste and recycling from premises in the City and each and all of the duly authorized agents and employees of such contractor connected with the collection and disposal of solid waste and recycling under the contract with the City.

(b) "Commercial customer" means any business, industry, service, profession, or multi-unit residence with four or more dwelling units per building.

(c) "Dwelling Unit" means one or more rooms, designed, occupied, or intended for permanent occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the unit for the exclusive use of the occupants.

(d) "Householder" means anyone inhabiting a residence and also includes, but is not limited to, a landlord, tenant, lessor, lessee, and the person holding legal title to the residence, including that person's spouse.

(e) "Recycle" or "Recycled" or "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting Solid Waste that would otherwise be processed or disposed in a solid waste disposal facility and returning the reconstituted materials to commerce as commodities for use or exchange.

(f) "Residence" means a dwelling unit in any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a tent, cabin, trailer, trailer-coach or other temporary or transient structure or facility. Residence includes
multi-unit buildings up to and including three dwelling units per building.

(g) "Solid Waste" means such unwanted residual solid or semisolid material as results from residential, industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining or demolition operations, or other waste materials of the type that would normally be included in demolition debris, and includes, but is not limited to, garbage, scrap tires, combustible and non-combustible material, street dirt, and debris. "Solid waste" does not include any material that is an infectious waste or a hazardous waste.

943.02 PRIVATE COLLECTORS PROHIBITED; EXCEPTIONS.

(a) The City hereby declares its exclusive right to provide solid waste and recycling collection and disposal service to all householders. No private solid waste or recycling collectors shall be permitted to operate within the City except those collectors providing service to commercial customers. Any truck used for hauling solid waste shall have an enclosed and watertight body. All solid waste and/or recycling collectors shall comply with all applicable rules and regulations of the Montgomery County Solid Waste District.

(b) Householders transporting their own recyclables from their own residence to a recycling facility are excluded.

943.03 PRE/POST -COLLECTION PRACTICES.

(a) No householder or commercial customer within the City where solid waste is accumulated or allowed to be, shall fail to procure and keep available, for the exclusive use on such premises or on the part thereof occupied by the householder or commercial establishment, watertight containers to hold all the solid waste and

recycling accumulated thereon during the period of one week.

(b) Such containers shall be of rust-resistant, non-absorbent, watertight materials, have close-fitting lids, and, shall each be provided with wheels and/or handles, and placed on the ground level of the premises at the curbside (or house side if applicable) for the collector, but not within the limits of a street. All solid waste and recycling accumulated upon the householder's or commercial establishment's premises shall be placed in such containers and the lids kept firmly fixed in place. Containers shall be kept in a clean, neat, and sanitary condition.

(c) No person shall place solid waste and recycling, or containers containing solid waste and recycling at the curbside for pick-up more than 48 hours prior to the scheduled pick-up.

(d) No person shall leave empty containers used for the disposal of solid waste and recycling in the public right-of-way for a period more than 24 hours after scheduled pick-up.

(e) Carts shall be located in an unobstructed, easily accessible area for the Collection Agent. If carts are stored outside and are visible from the street, they shall be no closer to a side lot line than the minimum side yard requirements of the Zoning Code, and no closer to the street than the front of the residence or Commercial Customer. In no case shall the carts be stored where they may become offensive to or create a nuisance for neighbors.

943.04 REQUIREMENTS FOR SERVICE.

(a) Each dwelling unit shall have solid waste and recycling collection and disposal service. Each residence shall have solid waste and recycling collection and disposal service through the Collection Agent. Inhabiting a residence shall be prima-facie evidence of generation of solid waste. The householder of a residence shall be responsible for payment of fees for solid waste and recycling collection and disposal service.

(b) Each commercial customer must have solid waste collection and disposal service.

(c) No householder or commercial customer shall fail to have solid waste collection and disposal service. Any household or commercial customer found to be without solid waste collection and disposal service shall be considered a Public Nuisance as defined by Section 1328.01(A) of the Codified Ordinance of the City

of Kettering, Ohio; and further subject to the application, enforcement, and abatement of said nuisance as further defined in Chapter 1328 of the Codified Ordinance of the City of Kettering, Ohio.

943.05 RATES AND SERVICES.

(a) The types of services offered by the Collection Agent for the collection and disposal of residential solid waste and recycling, and the corresponding rates shall be established by written agreement between the City and Collection Agent. Any other rates related to the collection of solid waste may be established by adoption of a resolution of the Kettering City Council.

(b) A Collection Agent shall not charge a fee in excess of the rates established by written agreement with the City. However, a Collection Agent may charge additional amounts for extra services not required under this Ordinance as permitted in the written agreement.

943.06 PROMULGATION OF RULES AND REGULATIONS.

The Public Service Director shall administer the solid waste and recycling collection and disposal contract within the City, and shall make all the necessary rules and regulations governing the same. A copy of the solid waste and recycling collection rules shall periodically be provided to the householders of all residential property in the City. Every householder or other resident of property in the City shall abide by the solid waste and recycling collection and disposal rules.

943.07 SOLID WASTE HAULER REGISTRATION.

It shall be the responsibility of the Collection Agent to register all vehicles used in the hauling of solid waste with the Public Health Department of Dayton and Montgomery County. All hauling operations will be in accordance with the Montgomery County Waste District regulations.

943.08 CONTAINERS AT FOOD VENDING ESTABLISHMENTS.

The owner or operator of every fixed or mobile food vending establishment in the City shall provide an adequate number of solid waste disposal containers to service patrons of the establishment. Drive-in facilities where food is consumed in the car shall have at least one such container for every four parking spaces. Suitable notices shall be posted warning of penalties for littering streets as established by this Chapter.

943.09 TRASH PICKING PROHIBITED.

When solid waste or recyclables have been set out for collection, except for law enforcement officers, no person who is not the owner or lessee of the premises shall open any closed waste or trash receptacle, cart, can, bin, or bag for the purpose of picking through or removing any item from said closed receptacle, cart, can, bin, or bag, nor shall any item be removed from a recycling bin or container. No person, without privilege to do so, shall dispose of solid waste on or in the receptacle, cart, can, bin, or bag of another.

943.10 SOLID WASTE MANAGEMENT PLAN.

Collection and disposal of solid waste shall conform to the applicable provisions of the latest Solid Waste Management Plan of the Montgomery County Solid Management District approved by City Council.

943.99 PENALTY.

(a) Whoever violates a provision of this code is guilty of a fourth degree misdemeanor on the first offense, punishable by a fine of up to $250 and maximum jail time of 30 days, and on each subsequent offense, a third degree misdemeanor punishable by a fine of up to $500 and maximum jail time of 60 days. Any such violation shall be a strict liability offense (malum prohibitum) and no proof of intent shall be necessary. Each day that a violation continues shall be deemed a separate offense.

(b) Whoever violates any of the provisions of this Chapter or any rule or regulation promulgated pursuant to the Ohio Revised Code, the Ohio Administrative Code, or the rules and regulations promulgated hereunder shall be liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, in addition to the penalty provided in division (a) of this section.

(c) The criminal penalties set forth in division (a) of this section are not exclusive, and nothing shall prohibit the City from also pursuing a civil action including, but not limited to, injunction, declaratory judgment, or civil penalties against any person who violates any of the provisions of this Chapter or any rule or regulation promulgated pursuant to the Ohio Revised Code, Ohio Administrative Code, or this Chapter.

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