

NOTICE

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**CHAPTER 943
GARBAGE AND REFUSE COLLECTION**

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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

SECTION 943.01. DEFINITIONS.

As used in this chapter:

- (a) "Collection Agent" or "Refuse Hauler" means any owner of collection and transportation vehicles which have been approved for garbage, rubbish and salvage material collection and transportation by the Sanitarian of the Dayton-Montgomery County Combined Health District, and who possesses a current permit for such work issued by the City Manager.
- (b) "Board of Health" means the Dayton-Montgomery County Combined Health District.
- (c) "City" means the City of Kettering, Ohio.
- (d) "Commercial Establishment" means any structure, whether public or private, that is adapted for occupancy, for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise or for the performance of work or labor, including hotels, apartment buildings, tenement

houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, abattoirs, warehouses, factories and all outhouses, sheds, barns and other structures on premises used for business purposes. This definition excludes any dwelling unit which is housed in any structure containing three (3) or less dwelling units.

(e) "Employee" means any driver or assistant working with or on collection and transportation vehicles.

(f) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(g) "Person" means any person, householder, firm, partnership, association, corporation, company or organization of any kind.

(h) "Rat Harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind.

(i) "Ratproofing" means a form of construction which prevents the ingress of rats into commercial establishments from the exterior or from one building to another. It consists essentially of treating all actual or potential openings in the exterior walls, ground or first floors, basements, roof and foundations, that may be reached by rats from the ground by climbing or by burrowing, with materials impervious to rat gnawing.

(j) "Rubbish" shall be classified as kitchen rubbish, household rubbish, yard rubbish, commercial and industrial rubbish or miscellaneous rubbish.

(1) "Kitchen Rubbish" means all types of food containers and wrappings, including tin cans, bottles, jars, broken glass, crockery, paper and wood boxes and small metal objects.

(2) "Household Rubbish" means all types of household materials to be discarded, such as newspapers, magazines, books, wrappings, cartons, boxes, ashes, excelsior, rags, clothing, wallpaper, leather objects, sweepings, animal offal and small household appliances.

(3) "Yard Rubbish" means all material which grows on the property which is to be disposed of, such as grass clippings, weeds, leaves, plants, wood shavings, sawdust, garden trash, clippings from hedges and shrubs, branches under two inches in diameter from trees and bushes, and small roots and stumps under two inches in diameter.

(4) "Miscellaneous Rubbish" means all other material not above mentioned, including rocks, sod, dirt, earth, sand, brick, stone, wood, plaster or similar substances that may accumulate as a result of construction, or crates, bedding, furniture, floor covering, large household appliances, tree or shrub limbs in excess of two inches in diameter, scrap, abandoned automobiles and similar materials. An automobile shall be considered abandoned unless it is properly registered and current and valid license plates are exhibited thereon.

(5) "Commercial and Industrial Rubbish" means all waste material resulting from the operation of a commercial or industrial enterprise that is not salvageable.

(6) Residential Garbage and Refuse – Refer to Subsection (b) of Section 943.09.

(k) "Salvage Material" means clean packing materials such as cardboard boxes, paper, newspapers, saleable metals and similar materials which can be rejuvenated or returned to pulp mills for reconstitution. No material to be dumped or incinerated shall be considered as salvageable.

SECTION 943.02. PRECOLLECTION PRACTICES.

(a) It shall be the duty of each Person to provide an adequate number of approved containers to hold all Garbage, Kitchen Rubbish and Household Rubbish, and Miscellaneous Rubbish small enough to fit into an approved container, accumulated during a period of seven days, in the case of a residence, and forty-eight hours in the case of a Commercial Establishment. All such containers shall be of rust-resistant, nonabsorbent, watertight materials, provided with a tightly fitting lid, and shall have suitable handles on either side. Such containers shall be of not less than ten gallons nor more than thirty-five gallons capacity, except where an approved portable container service is used, and shall be kept in a clean, neat and sanitary condition at all times. Accordingly, all garbage shall be drained of liquid and wrapped in paper before being placed in a container.

(b) It shall be the duty of each person to ensure that Yard Rubbish is not placed in the containers described in (a) above.

(1) Bags specifically designated for Yard Rubbish (Yard Bag") must be purchased from the Refuse Hauler at a cost not to exceed the Yard Bag Rate set by Council per Section 943.04.

(2) The Refuse Hauler may refuse collection of any Yard Rubbish not disposed of in the manner prescribed in this Section.

(3) The Refuse Hauler may refuse collection of any otherwise acceptable Garbage, Kitchen Rubbish, or Household Rubbish where the approved container also contains Yard Rubbish.

(4) The Refuse Hauler may refuse collection of any Yard Bag which contains material which is not Yard Rubbish.

(c) Trees or shrub branches, and roots must be cut to four feet or less and tied in bundles of not more than two feet in diameter or height. Each such bundle shall have a Yard Bag attached, which bag shall be purchased from Refuse Haulers in the manner provided in (b) above.

(d) Salvage Material shall be bundled for transportation and need not be kept in enclosed containers. Large Miscellaneous Rubbish need not be kept in closed containers.

(e) No person shall place any Garbage or Rubbish in any street, alley or other public place or on the property of another. No person shall throw or deposit any Garbage or Rubbish in any stream or other body of water. Burial, piling or dumping of any such matter on the premises is prohibited.

(f) Garbage and Rubbish shall not be allowed to accumulate at any noncommercial establishment for a period longer than seven days or at a Commercial Establishment for longer than forty-eight hours. Any unauthorized accumulation or storage contrary to the provisions of this chapter is hereby declared to be a nuisance and is prohibited.

(g) Containers shall be located in an unobstructed easily accessible area for the Refuse Hauler. If stored outdoors they shall be no closer to a side lot line than the minimum sideyard requirements of the Zoning Code if visible from the street, and no closer to the street than the front of the residence, and no further from the rear of the residence or Commercial Establishment than twenty feet unless otherwise agreed upon with the Refuse Hauler. However, in no case shall containers be stored where they may become offensive to or create a nuisance for neighbors.

(h) Garbage, Kitchen Rubbish and Household Rubbish only may be placed out for pickup on the regular collection day by a Person; all Yard Rubbish and Miscellaneous Rubbish may be removed from the premises in a truck or van or other enclosed vehicle or two-wheel trailer provided such trailer has a device to contain and cover the Yard Rubbish or Miscellaneous Rubbish.

(i) The total approved containers (cans) for single Dwelling Units, excluding Yard Bags, collected per week for the standard monthly refuse collection fee shall be established pursuant to written agreement between the City and the City's Authorized Collection Agent. The

Refuse Hauler shall be permitted to contract with any person or other entity to collect additional approved containers (cans) for supplemental compensation.

(j) The Refuse Hauler is not required to pick up the following named materials during his regular pickup of refuse as it can cause severe problems to the County incinerator operation:

- (1) Refrigerators, stoves, hot water heaters, washing machines and dryers.
- (2) Auto parts: bodies, batteries, fenders, hoods, seats, bumpers, motors, transmissions, mufflers, exhaust pipes, etc.
- (3) Bed springs, metal beds, metal fencing or posts, fifty-five gallon drums, bicycles, swing sets, etc.
- (4) Dirt, stone, concrete blocks and any other type of debris that cannot be burned.
- (5) Tree limbs, shrubbery and other wood products exceeding two inches in diameter or four feet in length.

SECTION 943.03. COLLECTION, TRANSPORTATION AND DISPOSAL.

(a) Only those persons who have been designated as approved Collection Agents by the City Manager may collect and transport Garbage, Rubbish and Salvage Materials in the City.

(b) Employees of the approved Collection Agent shall be garbed in uniforms or coveralls.

(c) Employees of the approved Collection Agent shall pick up containers from the authorized storage area, empty them immediately into the collection vehicle, and return them to the storage area. In no case shall containers or Yard Bags be placed at or near the street before or after collection.

(d) From and after January 1, 1990, collection and transportation in the City of Garbage and any Rubbish, with the exception of Yard Rubbish and Miscellaneous Rubbish, shall be by leakproof truck equipped with a compaction device. However, Salvage Materials, Yard Rubbish and Miscellaneous Rubbish may be transported in other types of trucks that are approved by the City Manager.

(e) Every vehicle to be used in the collection and transportation of Garbage, Rubbish and Salvage Materials in the City shall be inspected at least annually by the Sanitarian of the

Dayton-Montgomery County Combined Health District to ascertain that it is leak-proof and equipped with an adequate cover or compaction device, as provided in subsection (d). Every such vehicle shall be inspected by a law enforcement officer for compliance with State and City laws requiring safety features, including turn signals, stop lights and tail lights. Such annual inspections shall be made between March 1 and April 1 of each year. The Sanitarian or law enforcement officer may order an inspection at any other time if they have reason to believe that the vehicle has for any reason fallen below these minimum sanitary and/or safety requirements.

(f) Excluding yard waste disposed of at Ohio EPA approved recycling or compost facilities, all garbage, refuse, waste, rubbish and other items and materials collected, picked up and transported by a Collection Agent or Refuse Hauler shall be transported and disposed of in full compliance with and pursuant to all regulations, policies and rules of the Montgomery County Solid Waste District, including any requirement that such garbage, refuse, waste, rubbish and other items and materials be transported only to a transfer facility designated and operated by the Montgomery County Solid Waste District.

(g) Collections shall be made in residential areas and that portion of a commercial or industrial area within 200 feet of an adjoining residential area between the hours of 6:30 a.m. and 7:00 p.m., Monday through Saturday except where primary or secondary thoroughfares abut these residential areas and a no parking lane is provided. No stop shall be made in the traveled lanes of these thoroughfares except between the daylight hours of 9:00 a.m. and 3:00 p.m. All Collection Agents shall maintain a regular schedule of collection from the customer at least weekly. All Collection Agents shall make arrangements with customers for pick up of Yard Bags.

(h) All collection vehicles shall be properly marked and identified with the name and telephone number of the Collection Agent. The letters and numbers shall be at least six inches in height. All those having an interest of fifty percent or greater in the business shall submit their name, address and telephone number to the Sanitarian.

(i) Collection Agents shall collect and transport material from approved containers not to exceed six in number per week excluding Yard Bags, which shall not exceed sixty pounds in weight per container for the standard monthly refuse collection fee not to exceed the Maximum Rate as authorized by the City in Section 943.04. The Refuse Hauler shall be permitted to contract with any person to collect additional approved containers, cans and/or bags for supplemental compensation, not to exceed the Supplemental Rate as authorized by Council per Section 943.04. The Supplemental Rate shall include the supplying of the plastic bag or other container by the Refuse Hauler. The Refuse Hauler shall contract with any Person to supply and collect Yard Bags for Yard Rubbish at a cost not to exceed the amount provided in Section 943.02(b). Failure to comply with any provision of this Section shall constitute just cause for the Sanitarian to immediately revoke the Collection Agent's license for the City unless good cause has been shown.

SECTION 943.04. RATES.

The types of services offered by the City's Authorized Collection Agent for the collection of residential garbage and refuse and the corresponding rates shall be established by written agreement between the City and the then Authorized Collection Agent. Any other rates related to collection of waste, rubbish, garbage and refuse may be established by adoption of a resolution of the Kettering City Council.

SECTION 943.05. LICENSE AND FEES.

(a) It shall be the responsibility of the owner of any vehicle to be used for collection or transportation of Garbage, Rubbish or Salvage Materials in this City to procure a collection permit for each such vehicle. These permits shall be issued by the City Manager upon passage of inspection of the vehicle by the Sanitarian of the Dayton-Montgomery County Combined Health District and a law enforcement officer. Permits shall be valid from June 1 through May 31 of each year. The Sanitarian may revoke all permits of an approved Collection Agent if any of his trucks or the drivers thereof are in violation of any of the provisions of this chapter.

(b) The City of Kettering annual fee for inspection and permit of each truck equipped with a compaction device shall be fifty dollars (\$50.00). The approved Collection Agent paying such permit fee shall be entitled to one auxiliary permit for an open truck at no extra charge, provided it meets inspection standards set forth above. Inspection and permit fees for all other trucks shall be thirty-five dollars (\$35.00) annually.

Collection permits shall be prominently displayed on the street side of the vehicle.

(c) All Collection Agents shall post with the Finance Director of the City a One Thousand Dollar (\$1,000) operational performance bond. In lieu of the performance bond the Collection Agent may give to the Finance Director a savings passbook pledging a savings account of a like amount as security for performance. Whenever a breach of the performance bond occurs, the bond money shall be used to defray expense of supplying temporary collection for the residents affected until a substitute Collection Agent can be secured. Any balance shall be returned to the surety or posting party less an additional twenty-five percent of the amount expended for collection costs which shall constitute reimbursement of administrative costs by the City. If the balance is unclaimed by the surety or posting party within one year's time from the date of breach, then the sub-balance shall be placed in the General Fund of the City. The posting of an operational performance bond as required by this Subsection shall not apply to the City's Authorized Collection Agent.

(d) Each Collection Agent shall furnish satisfactory evidence that he has procured and is keeping in full force and effect a policy of public liability insurance providing himself with

indemnification against any claim, demand, lawsuit or judgment. The policy of liability insurance is to guarantee at least One Hundred Thousand Dollars/Three Hundred Thousand Dollars (\$100,000)/(\$300,000) per accident for personal injuries and Twenty-Five Thousand Dollars (\$25,000) property damage per individual covering both acts on private premises and vehicular claims. The requirements of this Subsection shall not apply to the City's Authorized Collection Agent.

(e) The Collection Agent shall give in writing a thirty-day notice in advance to the Sanitarian of the Collection Agent's intent to cease operation and shall report in writing the manner in which he has arranged for continued service to his former customers. The operational performance bond referred to in subsection (d) hereof will be returned to the Collection Agent thirty days after quitting his routes provided the Sanitarian has determined the transfer of affected customers to other Collection Agents has been completed.

(f) A Collection Agent shall not charge a fee in excess of the rates established in Section 943.04. However, a Collection Agent may charge additional amounts for extra services not required under this Ordinance.

(g) The willful failure of a Collection Agent to abide by the provisions of this Chapter and the regulations governing the practices and procedures for the collection service from time to time duly enacted by the City, shall constitute an event of default of the provisions of the operational performance bond of the willfully offending Collection Agent.

SECTION 943.06. TRASH CONTAINERS AT FOOD VENDING ESTABLISHMENTS.

It shall be the responsibility of the owner or operator of every fixed or mobile food vending establishment in the City to provide an adequate number of trash 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.

SECTION 943.07. Reserved for Future Use.

SECTION 943.08. Reserved for Future Use.

SECTION 943.09. DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE.

(a) Effective July 1, 2004, no Person, Collection Agent, or Refuse Hauler other than the City of Kettering and the City's Authorized Collection Agent, shall collect, remove, transport, or dispose of residential garbage and refuse within the City of Kettering. Persons transporting their own recyclable rubbish from their dwelling unit are excluded from the foregoing prohibition.

(b) As used in Section 943.09 (a), the following words shall have the meanings set forth below:

- (1) "Authorized Collection Agent" means a Collection Agent, as defined in section 943.01 (a), which has a valid and then effective contract with the City of Kettering to collect residential garbage and refuse.
- (2) "Residential Garbage and Refuse" means garbage, kitchen rubbish, household rubbish, yard rubbish, and miscellaneous rubbish, all as defined in Section 943.01, which is produced by one or more occupants of any dwelling unit housed in any structure containing no more than three (3) dwelling units.
- (3) "Dwelling Unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

SECTION 943.99. PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a minor misdemeanor for the first offense. A second violation of any of the provisions of this chapter by the same person within one year after the first violation, whether of exactly the same section or not, shall constitute a fourth degree misdemeanor.

Legislative History: Ord. 3579-92; passed 10/27/92. Ord. 3962-04; passed 2/24/04. Ord. 3971-04; passed 6/8/04.