

PUBLIC HEALTH AND SAFETY

ORDINANCE NO. 2004-05

**AMENDMENT TO ORDINANCE NO. 01-2002 ESTABLISHING RATES AND CHARGES
FOR MUNICIPAL COLLECTION AND DISPOSAL
FOR THE TOWN OF WOLCOTT, INDIANA**

WHEREAS, the Council of the Town of Wolcott, Indiana, has determined that a clean and well-maintained town is necessary for the safety and welfare of its citizens; and

WHEREAS, the Council of the Town of Wolcott has become aware of residents leaving unsightly and odorous garbage and trash openly displayed in front yards more than one day before scheduled garbage and trash pick-ups; and

WHEREAS, the Town of Wolcott is responsible to insure that all property within the corporate limits of the Town of Wolcott, Indiana, are collected and removed; and

WHEREAS, to date, the cost for collection and removal of trash and refuse has been paid by a portion of regular tax levy on the property owners in the Town of Wolcott and by a portion paid by the resident and/or the property owners in the Town of Wolcott; and

WHEREAS, after due consideration of the estimated cost for the provision of trash and refuse collection service within the Town of Wolcott, Indiana, the Council of the Town of Wolcott has determined that in the best interest of its citizens, it is necessary that the Council of the Town of Wolcott to adopt an ordinance increasing the fees and charges for the use of the trash and refuse collection service, and to set a schedule of when garbage and trash shall be set out for pick-up.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Wolcott, White County, Indiana, as follows:

SECTION I

Trash Collection

1. The Town of Wolcott shall arrange for a company or companies to collect trash/refuse from the buildings and residences within the corporate limits of the town on a regular weekly basis, or at such other times as may be determined by the Council of the Town of Wolcott. The collection of trash/refuse within the corporate limits of the town shall be administered, operated, conducted and/or maintained by and through the town council and the terms of the provisions of this article. The town shall have the right, exercisable by its town council, to appoint or contract with one or

more persons, exclusively, or concurrently with the activities of the town, to collect and/or dispose of refuse, garbage or rubbish.

2. Collection or disposal by unauthorized persons prohibited. No person or political subdivision shall collect, remove, cremate, dispose or otherwise deal in refuse within the corporate limits of the town unless expressly authorized to do so by the town council.
3. Transport of sanitary waste, garbage or other putrescible waste. No person or political subdivision shall transport any sanitary waste, garbage or putrescible solid and semisolid wastes over the public streets, highways or alleys of the town, except in packer type vehicles which are in proper working order.
4. Transport of nonputrescible waste. No person or political subdivision shall transport any nonputrescible solid or semisolid waste on the public streets, highways or alleys of the town in open trucks unless securely covered with a tarpaulin or other similar type covering from which no dust, odor or waste can escape.
5. Trash bag usage required. It shall be the duty of every person who is the owner or occupant of any premises within the corporate limits of the town to bag or bundle all residential garbage and trash.
6. Containers. Every person who is the owner or occupant of any premises within the corporate limits of the town is encouraged to provide a suitable and sufficient garbage container upon the premises.
7. Capacity of Containers.
 - (a) Each garbage container shall be limited to a capacity of 96 gallons (toter).
 - (b) Household trash or rubbish shall be contained in bags and placed in respective garbage containers. Garbage containers will not be emptied if contents are loose and unbagged.
8. Generally, garbage bags or receptacles required by this ordinance shall be placed within the front lot lines. All receptacles for garbage and trash shall be kept clean and in a sanitary condition. The container must have lids which fit tightly, and all containers must be kept closed at all times.
9. Storage of refuse; unlawful deposit or accumulation of refuse.
 - (a) No person shall place within the town any refuse in any street, alley or other public place, or upon any private property, whether owned by such person or not, except in proper containers for collection or under express approval granted by the town council. No person shall throw or deposit any refuse in any stream or other body of water.
 - (b) Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited.

- (c) No person shall cast, place, sweep or deposit anywhere within the town any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises within the town.
10. Garbage and refuse accumulated by residents in buildings with three or fewer dwelling units and not collected in rear alleys shall be placed out for collection not earlier than 12:00 noon on the day preceding collection. Emptied receptacles and uncollected items shall be returned to the premises at the end of the day of collection.
11. All trash receptacles and items for pick-up (bagged trash or individual items) shall be put out for weekly pick-up at its normal pick-up site (street easement in front of property) not earlier than 12:00 noon on the day preceding collection. Trash receptacles and left items shall be returned to the premises at the end of the day of collection. One warning of violation will be given in one calendar year, January through December. If a second notice of violation is issued within that calendar year, the resident will be fined \$25.00 for this offense and for every violation thereafter within the calendar year.
12. Frequency of collection.
- (a) *Residential premises with three or fewer dwelling units.* Garbage and refuse accumulated by residential buildings with three or fewer dwelling units shall be collected once each week, except on designated holidays.
- (b) *Apartments or multiple dwelling units.* Where necessary to protect the public health, the town council shall have the authority to require that more frequent collections than once each week be made, or that additional one-cubic-yard containers be obtained. In such instance, or otherwise when reasonably required by the town council, the person owning or operating the apartment or multiple dwelling unit shall contract with a private collection service to meet the requirements of the town council.
- (c) *Commercial premises.* The town council may designate that a hotel, restaurant or other business or commercial institution shall enter into an agreement with a private collection company authorized to do business in the town, and in such instance the town shall not collect garbage and refuse from such person.
13. Limitation of quantity.
- (a) *Residential premises.* The town shall collect a reasonable accumulation of garbage and refuse of each family during a collection period for the standard charge.
- (b) *Apartments or multiple dwelling units.* The town may collect a reasonable accumulation of garbage and refuse of apartments or multiple dwelling units during the collection period at a fair charge based upon the number of apartments or multiple dwelling units. The town council shall have the authority either to refuse to collect unreasonable amounts or to make an additional charge for such amounts, as advised by the current contracted trash collector.
- (c) *Commercial premises.* The town council may designate that a hotel, restaurant or other business or commercial institution shall enter into an agreement with a

private collection company authorized to do business in the town, and in such instance the town shall not collect garbage and refuse from such person.

14. Special refuse problems.
 - (a) *Contagious disease refuse.* The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under supervision and direction of the county health officer. Such refuse shall not be placed in containers for regular collections.
 - (b) *Inflammable or explosive refuse.* Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the town manager at the expense of the owner or possessor thereof.

15. Restriction of garbage receptacles to designated areas.

Where any commercial, industrial or multi-family property has a specific area designated for the placement of garbage receptacles, by signage, enclosure, or other designation, all owners, operators and managers of the property and all garbage collection services, firms or other entities shall be required to keep the garbage receptacles and all garbage trash or refuse intended for placement in said garbage receptacles within the designated area.

16. Enforcement.
 - (a) In the event garbage receptacles or garbage, trash or refuse are placed outside the designated areas described in subsection (a), the owner, operator, manager and collection firm, company or other entity shall be liable, jointly and severally, for a violation of this ordinance and they, jointly and severally, shall be subject to one warning of violation in one calendar year, January through December. If a second notice of violation is issued within that calendar year, the resident will be fined \$25.00 for this offense and for every violation thereafter within the calendar year.
 - (b) In addition to and without limitation on the authority of the town to pursue collection of the fines set out above, in the event parties subject to this section fail to comply with the section, said failure to comply shall constitute a public nuisance and the town shall be authorized to pursue all lawful remedies for the abatement of said nuisance.

SECTION II

Rates and Charges

1. Fees.

The owner and/or the occupant of each residence or residential unit or other non-family dwelling located within the Town of Wolcott which are currently being provided Trash Collection Service by the Town or its agent(s) shall continue to be provided Trash Collection Service by the Town or its agent(s) unless specified differently in the contractual agreement between the Town and its agent(s). Each single residential unit and other non-family dwelling shall be assessed a fee of \$8.00 per month. The fees for

collection and disposal of garbage and refuse shall be determined by the town council. The fees imposed under this division shall be payable monthly, and shall be billed, whenever practical to do so, with the regular Water and Wastewater billing for water and other charges.

2. Billing.

The fees imposed under this division shall be payable monthly, and shall be billed, whenever practical to do so, by the Town of Wolcott in the same manner as other utility rates and charges are collected

3. Liability for payment.

The user charges imposed under this division shall be billed to the person who is billed for water service at the residence dwelling, apartment or commercial unit, unless by contract with the town another person assumes responsibility. If a tenant, occupant or other non-owner is billed, the owner shall be liable for the user charge if payment is not made by the tenant, occupant or other non-owner when the charge is due as required in this division. Such owner shall have the right to examine the town's collection records to ascertain whether such charges have been paid.

4. Delinquent accounts.

(a) Fees levied pursuant to this division shall be due and payable on or before the due dates shown on the bills. Any fee not paid by the due date (approximately 15 days after the bill is rendered) shall be considered delinquent. Such delinquent fee, together with any applicable interest, shall be collectible as set forth in this section. Any delinquent or unpaid rates and charges may be assessed a 10% penalty and collected according to the provisions of Indiana Code as amended.

(b) If provided by the state statutes, delinquent fees may be made a lien against the property served through certification to the auditor and the recorder of the county.

(c) In addition to the remedies otherwise provided for in this section, the town shall have the right to bring a civil action to recover any delinquent fees, together with interest at the rate of eight percent per annum and a reasonable attorney's fee. It shall also have the right, if provided by the statutes of the state, to foreclose any lien established under the provisions of this section with recovery of the charge, interest of eight percent per annum and a reasonable attorney's fee.

SECTION III

Revenues

1. All revenues generated from the collection of fees for trash collection as provided above shall be paid in the Office of the Clerk-Treasurer of the Town of Wolcott.
2. Upon receipt of all such revenues, the Town Clerk-Treasurer shall deposit such revenues into the General Fund.

3. The Council of the Town of Wolcott shall utilize such revenues deposited in the General Fund in such manner and for such purposes and in the manner required for appropriation and expenditure of funds as provided by law.

SECTION IV

Effective Date

This Amendment to Ordinance No. 01-2002 shall be in full force and effect as of February 1, 2005, upon final hearing according to law and passage by the Council of the Town of Wolcott, Indiana, as described in IC 5-3-1-4. The rates established herein shall remain in effect until amended or changed by the Council of the Town of Wolcott. This ordinance shall amend or revoke any previously adopted ordinances in conflict herewith.

Passed and adopted by the common Council of the Town of Wolcott, White County, State of Indiana, this 28th day of December, 2004.

YEA

NAY

Robin D. Hensler

Danny L. Sheets

Attest:

Linda S. Bajzatt, Clerk-Treasurer