

CHAPTER 70 - GARBAGE AND RUBBISH

70.10.

Definitions. For purposes of this Chapter, certain words and phrases shall have the following meanings:

1. Garbage. Any and all refuse accumulation of animal, fish, fowl, fruit, or vegetable matter that results from the preparation, use, cooking of meats, fish, fowl, fruit or other substances, including lawn cuttings, green shrubbery and leaves.
2. Trash and Rubbish. Material other than garbage resulting from ordinary household and commercial operations including such items as tin cans, glass, bottles, ashes, papers, magazines and newsprint, boxes, rags and small cartons.
3. Commercial Incinerator. An incinerator designed or used for public, private or commercial use, meeting the standards of the Incinerator Institute of America with reference to the particular use for which said incinerator is employed, or meeting the standards set by the Town Council of Walkerton, Indiana, from time to time hereafter.
4. Public Nuisance. It shall be a public nuisance to burn any garbage or trash at or on the exterior of buildings in the Town of Walkerton, Indiana, except that commercial incinerators may be used for burning of garbage, trash or rubbish upon application and approval of said proposed commercial incinerator by the Town Council of the Town of Walkerton, Indiana, but in all such cases, all such commercial incinerators shall meet the requirements and specifications, in accordance with standards set by the Board of Health, or as set by the Town Council of the Town of Walkerton from time to time hereafter. All violations of this Ordinance shall constitute a public nuisance.

70.20.

CONTAINERS DEFINED

1. Containers for the accumulation of trash, rubbish or garbage shall be of solid metal or plastic type, with a secure fitting lid.

2. That from and after the effective date of this Code, no rubbish or trash shall be burned in containers in the Town of Walkerton, Indiana, on or at the exterior of buildings or premises, except in approved incinerators meeting Indiana Board of Health Standards.
3. Accumulations of garbage, trash, or rubbish in containers larger than thirty (30) gallons in size and sixty (60) pounds in weight shall constitute a violation of this Code.
4. That the Town Council be, and hereby is, authorized and empowered to remove and dispose of any and all barrels, drums, containers, or receptacles accumulating garbage, trash or rubbish, which said barrels, drums, containers or receptacles fail to meet the qualifications and specifications as to size heretofore set forth, providing said barrels, drums, containers or receptacles are situated at the exterior of buildings within the corporate limits of the Town of Walkerton, Indiana, if they contain rubbish, trash or garbage. That the Chief of Police and all of the officers of the Police Department, shall be the enforcement agency for the enforcement of this Code, and for the abatement and prevention of violations of this Code.
5. That upon the application of any person for the approval of plans and specifications for a commercial incinerator for the burning of garbage, trash or rubbish, the Town Council of the Town of Walkerton, Indiana, shall, before approval of such plans and specifications, be satisfied that the proposed incinerator's use and location will not endanger the public health, will not pollute the air, will not create a public nuisance and meets the standards of the Indiana Board of Health. Upon such findings by the Town Council, the Council shall submit written approval to the Town Clerk, and the Town Clerk shall thereupon issue a permit for the construction and use of such incinerator. Any and all permits issued hereunder shall be valid for a one year term from the date of issuance and shall be subject to the annual review of the Town Council and subject to an annual

approval or disapproval by the Town Council of the Town of Walkerton, Indiana.

- 70.21. Receptacles. All garbage, trash or rubbish stored on or at the exterior of buildings or premises for more than twelve (12) hours prior to collection must be stored animal-proof watertight containers of metal, plastic or similar rigid materials not exceeding thirty (30) gallons in capacity and sixty (60) pounds in weight. Provided, however, that garbage, trash or rubbish in watertight plastic trash or garbage bags may be placed for collection not more than twelve (12) hours prior to the collection day as designated by the Town Council of the Town of Walkerton, Indiana. All receptacles shall be placed conveniently for collection within ten (10') feet of the designated collection route.
- 70.30. Right to Removal. Any resident, property owner, or tenant within the Town shall be entitled to garbage and refuse removal services, subject to rules and regulations which shall be established by the Town Council, provided however, that owners or tenants of commercial and industrial properties shall arrange for their own collection services at their own expense. The Town shall not be required to give service to any user who has not paid for the service.
- 70.31. Rates and Charges. The Town Council is hereby authorized to establish by resolution a schedule of rates and charges to be assessed for residential garbage removal services. The charges shall be placed on a customer's utility statement and will be payable in advance and billed at least as often as quarterly. Charges for residential accounts shall be established by the Council, by resolution, taking into consideration the amount of garbage and frequency of pickup.
- 70.32. Supervision. The Town Council shall at all times exercise supervision over the collection of garbage and refuse through the street superintendent or such other person as it may appoint. The Council is empowered to enter into contracts and agreements with a private garbage collector and make any necessary rules having due regard for the public

health, appearance and sanitary conditions of the Town. Owners of commercial and industrial properties are permitted to employ any garbage and refuse collector of their choosing, however, all residential garbage and refuse removal shall be under the supervision of the Town Council and all residential property owners, or tenants shall be assessed charges for their services. Each user will be deemed to be residential based upon the rate classification adopted by the water and electric utilities and the charges shall be included on the water and/or electric utility bill sent the user.

70.33

Storage, pick-up, handling, transportation and disposal of garbage, trash and refuse. For the purpose of this chapter, the following words and phrases shall have the meanings respectfully described to them by this Section:

"Authorized Contractor" - the person holding the franchise granted by the Town for the collection of garbage, trash, and refuse within the Town.

"Dwelling" - Any room or group of rooms located within or on a premise and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

"Garbage" - All putrescible waste, except sewage and body waste, including all meat, vegetable, and fruit refuse and carcasses of small dead animals and dead fowls from any premises in the Town.

"Premises" - Business houses, boarding houses, rooming houses, offices, theaters, hotels, tourist camps, apartments, restaurants, cafes, bars, eating houses, hospitals, schools, private residences, vacant lots or other places within the Town.

"Refuse" - All solid waste, including garbage and trash.

"Trash" - Empty tin cans, open or broken bottles, waste paper and paper boxes, small light wood

scraps, or craft materials and other earthen, wood or metal refuse like scrap materials.

70.34.

Receptacles; Commercial, etc. Trash. It shall be the duty of every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where garbage or trash accumulates to provide at all times and to maintain in good order and repair on all such premises, portable containers for the refuse, which shall be made of galvanized metal or durable plastic, not easily corrodible, rodent and fire proof, with a tight-fitting lid which shall not be removed except when depositing or removing the contents of the receptacle. Such receptacle shall have handles on the sides and be of sufficient capacity and sufficient number to accommodate and securely keep all the garbage and rubbish which may accumulate between collections. Each container in which garbage is placed shall be not less than twenty (20) gallons or more than thirty-two (32) gallons in capacity, except as hereinafter provided. When excessive amounts of refuse accumulated and where storage as required above is impractical, a metal bulk storage container, approved by the county health officer shall be maintained. All such persons shall keep their containers clean and free from accumulations of any substances remaining attached to the inside of the container which would attract or breed flies, mosquitoes or any other insects. Commercial and industrial trash and rubbish which may be readily handled by the collection service may be stored in any manner which does not create a nuisance or a fire hazard.

70.35.

Placing of Certain Matter in Town Owned Receptacles Prohibited. No person shall throw, dump or place or cause to be thrown, dumped or placed, in any trash receptacle owned by the Town on any street, alley, highway or thoroughfare within the Town, any garbage, animal or vegetable substance of any kind or character whatever.

70.36.

Collection by Other than Authorized Contractor.

1. It shall be unlawful for any person within the Town, other than the authorized contractor, to collect in any

manner, for hire or otherwise, any garbage from premises within the Town, except as set forth below.

2. It shall be unlawful for any person to collect within the Town, for hire or otherwise, any trash or refuse other than garbage, except as set forth in subsection C of this section, unless such person has a valid and current hauler's license issued by the Town and unless such hauling is done in a vehicle on which the compartment in which the trash or refuse is hauled is so completed, sealed, and enclosed as to prohibit the accidental escape therefrom of any of the material hauled therein. Violation of this requirement by any person having a hauler's license shall result in the forfeiture of such license, in addition to subjecting such person to prosecution for violation of this Section. No private hauler, other than the authorized contractor, shall haul trash or refuse other than garbage under the provisions of this section from any place other than those which are commercial or industrial on any regular or specified frequency basis. Such haulers may make such pickups in residential zones on occasional, non-regular basis for residential owners or tenant, for the sole purpose of hauling large amounts of lawn cuttings, tree timbers, unusually large accumulations of paper, trash, building debris and other similar materials.
3. Notwithstanding the provisions of subsections 1. and 2. of this Section, the actual producers of garbage, trash and refuse may collect and transport from the premises occupied by them all such garbage, trash and refuse; provided, that such persons shall comply with the provisions of Section 5; provided further, that the conveyance of all garbage, trash and refuse over the streets of the Town shall be made in vehicles and containers constructed so as to prohibit the accidental escape therefrom of any of the material hauled therein.

70.37.

Disposal of Garbage, Etc. No person, including the authorized contractor, private haulers, and actual producers shall transport any garbage, trash, or refuse over the streets of the Town to any place for disposal within the Town. The authorized contractor shall make his disposal only at approved landfill

locations and at his own expense. Any hauler having a license who shall violate the provisions of this Section shall forfeit his hauler's license, in addition to being subject to prosecution for violation of this section.

- 70.38. Placing Garbage, etc. in Streets, Streams, Ravines, Etc. No person shall place any garbage, trash or refuse in any street, alley or other public place or upon any private property with the Town unless it is not in proper containers for collection, nor shall any person throw or deposit any garbage, trash or refuse in a stream, lake, pond, body of water or ravine.
- 70.39. Accumulation. Any unauthorized accumulation of garbage, trash, or refuse on any premises is hereby declared to be a nuisance and is prohibited. No person shall permit any garbage, trash, or refuse to accumulate on his premises or on premises under his control in any quantity greater than that for which he has made provisions for regular weekly collection and disposal.
- 70.40. Handling of Garbage, Etc. to Prevent Spreading Into Streets, Etc. No person shall cart, place, sweep or deposit anywhere within the Town any garbage, trash or refuse in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, or other public place or upon any occupied premises within the Town.
- 70.41. Handling Contagious Disease of Flammable Refuse
1. Contagious Disease Refuse. Removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases shall prevail shall be performed under the supervision and direction of the County Health Officer. Such refuse shall not be placed in containers for regular collection.
 2. Inflammable or Explosive Refuse. Highly inflammable or explosive materials shall not be placed on containers for regular collection, but shall be disposed of as directed by the Chief of the Fire Department at the expense of the owner or possessor thereof.

70.50.

License to Haulers.

1. From and after the passage of this Ordinance it shall be unlawful for any person, firm, or corporation to haul or solicit to haul any trash, refuse or other garbage from residences and/or business houses in the Town of Walkerton, St. Joseph County, Indiana, except that unless he shall have applied for and obtained a license thereof from the Town Clerk after having prior approval of the truck to be used for such purpose.
2. The Clerk of the Town of Walkerton shall charge the sum of Fifteen Dollars (\$15.00) per year for each license granted to haul or transport garbage, trash or refuse from the Town, which license shall apply only as to the vehicle for which it is issued and shall be renewed as of the 1st day of January each calendar year.

70.60.

Penalties. From and after the passage of this Ordinance and the legal publication thereof, any person violating any of the provisions hereof shall be punished by a fine not to exceed Three Hundred Dollars (\$300.00) or by imprisonment not to exceed six (6) months, or both.

70.70.

Leaves. The Town of Walkerton, by its municipal utility workers shall remove from the Town leaves that have been bagged and placed at the curb by its citizens. Said leaf pickup shall occur only in the fall of each calendar year and it shall be the responsibility of the Walkerton Clerk-Treasurer to announce pickup times for the bagged leaves and to further serve proper notice to the citizens for the Town of Walkerton concerning the dates of the pickup and to remind that said pickup needs to be with bagged leaves.

70.80.

Fire Control.

70.81.

Definitions. When used in this Ordinance:

1. "Municipality" is the Town of Walkerton, Indiana.
2. "Corporate Counsel" is the Town Attorney.

3. "Chief of the Bureau of Fire Prevention" or his designated representative is the Fire Chief of the Town Fire Department.
4. "Wood Products" are materials derived from or consisting of wood or vegetation including, but not limited to, paper, cardboard, rags, boards, branches, brush, grass, and leaves.
5. "Incinerator" means any engineered apparatus that burns waste substances with controls on combustion factors including, but not limited to, temperature, retention time, and air.
6. "Open burning" means the combustion of any matter in the open or in an open dump, and the products of combustion are emitted directly into open air without passing through a stack or chimney or combustion occurs in a device other than an approved incinerator or boiler.

70.82. Open Burning Prohibited. No outdoor or open burning shall be conducted or permitted unless it fits within an exemption under this statute or the party conducting said burning obtains a permit from the Fire Chief.

70.83. Fires Permitted. The following types of fires are permitted:

1. Fires celebrating twelfth-night ceremonies.
2. Fires celebrating school pep rallies.
3. Fires celebrating scouting activities.
4. Camp fires or fires for food preparation in adequate containers or in safe areas.
5. Residential burning of leaves during designated periods. Burning of leaves shall be permitted from 7:00 A.M. to 8:00 P.M. at the following times during the year - October 15 to November 15 and April 15 to May 15 of each year. Only leaves may be burned. Open burning of other materials is prohibited. Burning is prohibited in apartment complexes and mobile home parks.

6. Farm burning wood products derived from farming operations.

All exemptions shall be subject to the following:

1. Only wood products shall be burned unless otherwise stated above.
2. If fires create an air pollution problem or a nuisance, they shall be extinguished.
3. All residential leaf and farm operations shall occur during daylight hours during which the fires may be replenished, but only in such manner that nearly all the burning material is consumed by 8:00 P.M.
4. No burning shall be conducted during unfavorable meteorology conditions such as temperature inversions, high winds, air stagnation, etc.
5. No burning shall be permitted when such burning is prohibited by other valid ordinances of the Town.

70.84.

Variances. Burning not exempted by the previous subsection may be permitted with prior written approval of the Chief of the Fire Department furnishing fire protection in the locale of such fire or his duly authorized representative; provided, however, that the following types of burning may also require approval of the St. Joseph County Health Officer or his designated agent:

1. Emergency burning of petroleum products;
2. Burning of refuse consisting of material resulting from a natural disaster;
3. Burning of highly explosive or other dangerous materials;
4. Any other burning which the Health Officer, or the designated agent may from time to time so indicate.

70.85.

Additional Provisions.

1. Any person who allows the accumulation or existence of combustible material which constitutes

or contributes to a fire causing air pollution shall not be excused from responsibility therefore on the basis that said fire was accidental or an act of God.

2. The Fire Chief or his designated agent may impose any reasonable restrictions on open burning which are reasonably required to prevent the creation of a nuisance or hazard to the public health.
3. No person shall conduct or allow to be conducted a salvage operation involving open burning, or allow his property to be used for such open burning.

70.86.

Restriction for Control of All Fires.

1. No person shall set, start, or attempt to set or start, a fire or conflagration of any kind during any period of time within which the Walkerton Town Board of Trustees have determined and made a general notification of such determination, that the Town Trustees deem it necessary for the public safety and welfare to prohibit all fires within the Town or other areas defined by said Trustees during such period of time stated or until further notice from the Board of Town Trustees or the Town.
2. No person shall cause or permit any fire to burn upon any public street, alley, roadway or thoroughfare within the Town.
3. No person shall set or start, or attempt to set or start, any fire in violation of this chapter, or without fully complying with the provisions of this chapter.

70.87.

Enforcement and Penalties.

1. The Town Police Department shall enforce the provisions of this chapter with the assistance of the local Fire Department authorities:
 - A. Whenever a member of the Town Police Department or other person charged with the enforcement of this chapter finds that any section or sections are being violated by any person, he shall notify such person, in writing

on a citation form to be provided by the Town, of such violation. Such citation shall:

- (1) be made in duplicate
- (2) be serially numbered
- (3) show the specific violation charged
- (4) show the violators name and address
- (5) state any other information which the officer may then and there discover.

B. One copy of such citation shall be presented to the violator. In case such violator is not present, such citation may be left, in the case of individuals, at the violator's dwelling house or usual place of abode, or, in the case of other persons, at the office or place of business of such other persons, or, in the case of all persons, in a manner reasonably calculated to inform such person that he is in violation of this chapter.

C. The citation shall require the notified person to appear within seven (7) days at the Town Court. The officer or person serving such citation shall file the duplicate copy in the office of the Police Department. The person notified of a violation of the regulations as provided in this chapter shall, within said time, answer the charges of the violation or pay the prescribed fee. The amount of the fee shall be those set forth in sub-section (b) of this Section.

2. Any person found in violation of any section of this chapter shall be fined not less than Fifty Dollars (\$50.00) for the first offense; not less than One Hundred Dollars (\$100.00) for the second offense; not less than Two Hundred Fifty Dollars (\$250.00) for the third or subsequent offense with a citation being issued for each violation.

3. Each day that a violation is in effect shall constitute a separate offense for which a citation may be issued.