

CHAPTER 50: GENERAL PROVISIONS

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GENERAL PROVISIONS

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. All substances or material which remain after combustion.

AUTHORIZED AGENT. A person who has been designated to issue distinctively labeled bags on behalf of the village and to collect the necessary fees therefore.

DISTINCTIVE LABELED BAG. A sticker of such design as may be determined by the Board of Trustees containing a distinctive imprint or label to be used for the collection and disposal of non-recyclable garbage and trash in the village.

GARBAGE. All organic waste material, both animal and vegetable.

HAZARDOUS WASTE. A waste or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed; and

(3) All those chemicals, wastes, oils and/or all those articles or materials listed under N.Y. Env'tl. Conserv. Law § 27-0903 as drawn up by the Commissioner.

LANDFILL. A disposal facility or part of a facility meeting all DEC and EPA standards, where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment or an injection well.

PAPER. Waste paper, cardboard, cardboard boxes and containers.

PERSON. An individual, trust, firm, joint stock company, corporation, partnership, association or any interstate body.

PERSON IN CHARGE. A natural person, association, partnership, firm or corporation that occupies, manages, uses or controls premises.

RECYCLABLES. Those items or materials appearing on the official list of mandatory recyclable materials as adopted by the Board of Trustees.

REFUSE. All other waste material not otherwise specifically defined.

STORAGE. The containment of waste, garbage or refuse for a period of over 60 days, in such a manner as not to constitute disposal of the waste.

TRASH. All discarded material not suitable for further use.

VEHICLE. A motor vehicle designed or adapted for use in the removal of garbage and trash.

WASTE. Any garbage, refuse, trash, sludge and all other waste material not otherwise specifically defined.

WHITE GOODS. Washing machines, clothes dryers, refrigerators, freezers and all other similar types of materials that are of recyclable value.

YARD WASTE. Grass clippings, leaves and cuttings from shrubs and hedges.

(Prior Code, § 7-1-1)

§ 50.02 BOARD OF TRUSTEES AUTHORITY.

(A) The Board of Trustees is hereby empowered to adopt by resolution rules and regulations pertaining to solid waste management in regard to materials preparation requirements and such other rules and regulations as may be necessary to effectively and efficiently ensure sound management of this chapter.

(B) The provisions of this chapter shall incorporate by reference the rules and regulations as are in effect, and compliance with the provisions of this chapter shall require compliance with the rules and regulations.

(C) The rules and regulations may be changed from time to time by resolution of the Board.

(D) Failure to comply with the rules and regulations, except where otherwise excepted in this chapter, shall constitute a violation of this chapter.

(Prior Code, § 7-1-9)

§ 50.03 FEE SCHEDULE.

(A) The Board of Trustees shall establish by resolution the user collection fee which shall be applicable to all users of the village solid waste management program.

(B) Fees may be imposed for both recyclable as well as non-recyclable materials but shall not be in excess of what is needed to operate the waste management program.

(C) The fees may be changed from time to time by resolution of the Board of Trustees.

(Prior Code, § 7-1-15)

§ 50.04 ENFORCEMENT OF PROVISIONS.

The provisions of this chapter shall be enforceable by the Mayor, any member of the Board of Trustees, any peace officer, or any police officer or any agent duly authorized by resolution of the Board of Trustees.

(Prior Code, § 7-1-17(A))

DISPOSAL REGULATIONS

§ 50.15 PUBLIC PROPERTY DISPOSAL PROHIBITIONS.

No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon any sidewalk, street, alley, lane, gutter or any public ground in the village or into any stream or upon the banks of any stream running through or adjacent to the village.

(Prior Code, § 7-1-2(A)) Penalty, see § 50.99

§ 50.16 PRIVATE PROPERTY DISPOSAL PROHIBITIONS.

No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon his or her or another person's property, except that ashes may be deposited thereon with the owner's permission for the purpose of filling land so long as it is immediately covered with a suitable material to prevent ashes from blowing into the air.

(Prior Code, § 7-1-2(B)) Penalty, see § 50.99

§ 50.17 BURNING OR BURYING PROHIBITED.

No person shall bury or openly burn or cause to be buried or openly burn any garbage, refuse, papers, trash, hazardous waste and/or materials within the village limits.

(Prior Code, § 7-1-2(C)) Penalty, see § 50.99

§ 50.18 RESTRICTION ON VEHICLE USAGE.

(A) The collection, removal and carrying of garbage, refuse, trash, paper, hazardous waste and/or materials and ashes on any highway, street, alley or land of the village must be done in covered, watertight vehicles which shall be in accordance with the rules and regulations of the Board of Health.

(B) No garbage, papers, trash, refuse, hazardous waste and/or materials or ashes shall be spilled or scattered along the streets or public places and the vehicles used for the collection and transportation of the material shall not be allowed to stand or tarry along the public streets for a longer time than shall be reasonably necessary for the loading of the same.

(Prior Code, § 7-1-3) Penalty, see § 50.99

§ 50.19 NON-RESIDENT GARBAGE AND RECYCLABLES PROHIBITED.

It shall be a violation for non-residents of the village to purchase or otherwise use the distinctively labeled bags for the purpose of depositing garbage and trash in the village or to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the village operated waste disposal and recycling program.

(Prior Code, § 7-1-4) Penalty, see § 50.99

§ 50.20 PERMITTING DISPOSAL OF NON-RESIDENT GARBAGE AND RECYCLABLES PROHIBITED.

It shall be a violation for any resident of the village, owner, lessee or person in control of real property within the village to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the village operated waste disposal and recycling program.

(Prior Code, § 7-1-5) Penalty, see § 50.99

§ 50.21 RESTRICTED USE OF VILLAGE PROPERTY TRASH RECEPTACLES.

It shall be a violation to place any materials into a trash receptacle located on village property unless the waste was generated at that location. Permitted waste would include picnic waste.

(Prior Code, § 7-1-6) Penalty, see § 50.99

§ 50.22 USE OF DISTINCTIVELY LABELED BAGS; LOCATION OF GARBAGE.

(A) It shall be the responsibility of all persons residing within the village to separate all non-recyclable garbage and trash from recyclables, and to place in bag or container non-recyclables with a distinctively labeled bag sold by the village or its authorized agent.

(B) No person shall use any bag or label other than bags or labels issued by the village for disposal under the village-operated solid waste program.

(C) No person shall duplicate or imitate any distinctively labeled bag or label issued by the village.

(D) No person shall give, sell or issue in any manner a duplicated or imitated distinctively labeled bag or label.

(E) Any prohibited action of this section shall constitute a violation of this chapter.

(1) All garbage shall be set out in an enclosed waterproof container, a container purchased from the village or a plastic bag with a sticker purchased from the village.

(2) No garbage, tires, batteries or trash (which shall include demolition debris) shall remain outside of any building on the property.

(3) Garbage shall be set out to the curb no sooner than 24 hours prior to the scheduled pickup and containers shall be removed within 24 hours after the pickup.

(F) There shall be no conflict between divisions (E)(2) and (3) above. They are not inconsistent. Division (E)(3) above deals with garbage set out to the curb only and division (E)(2) shall not be interpreted as to allow garbage to remain at the curb longer than what is specified in division (E)(3) above.

(Prior Code, § 7-1-12) (Ord. 1-2006, passed 1-9-2006) Penalty, see § 50.99

§ 50.23 AUTHORIZED AGENT FOR DISTRIBUTION OF DISTINCTIVELY LABELED BAGS.

(A) Any person operating a place of business within the village may apply to become an authorized agent to issue distinctively labeled bags on behalf of the village.

(B) The authorized agent shall pay to the village the designated collection fee established by the village for each distinctively labeled bag sold upon receipt of the same.

(C) The authorized agent may add a service charge not to exceed the fee set for this purpose by the Board of Trustees. All fees shall be set by resolution of the Board of Trustees and may be changed by resolution from time to time.

(Prior Code, § 7-1-13)

§ 50.24 RE-USE OF DISTINCTIVELY LABELED BAGS PROHIBITED.

It shall be a violation to re-use, or permit to be re-used, a distinctively labeled bag that has previously been placed at the curb, or street side, for collection.

(Prior Code, § 7-1-7) Penalty, see § 50.99

§ 50.25 PRESUMPTION OF RESPONSIBILITY FOR IMPROPER DISPOSAL.

(A) In the case where waste is deposited in bags or containers that are not distinctively labeled, it shall be presumed that the waste is the responsibility of the person, or persons, that may be identifiable by inspection of the contents of the container or bag.

(B) In the event that identification cannot be determined by the inspection, it will be presumed that the waste is the responsibility of the occupant of single-family dwellings, or the owner of all other buildings or real property where the placement has been made. If placement is made on a public or private right-of-way, the closest private real property will be deemed to be the location of the violation.

(Prior Code, § 7-1-14)

GARBAGE COLLECTION RATES

§ 50.30 TITLE.

This subchapter shall be known and may be cited as the Village of Franklinville Garbage Collection Local Law.

(Ord. 2-2011, passed 5-23-2011)

§ 50.31 PURPOSE AND INTENT.

The Board of Trustees of the village recognizes the expectation of the residents of the village to be provided with a weekly garbage collection service. The general purpose of this subchapter is to provide for the most efficient, economic, and equitable system of garbage collection to the residents of the village.

(Ord. 2-2011, passed 5-23-2011)

§ 50.32 DEFINITIONS.

Unless otherwise stated in this subchapter, for the purposes of this subchapter, the definitions set forth in N.Y. Gen. Mun. Law § 451 shall be controlling.

(Ord. 2-2011, passed 5-23-2011)

§ 50.33 APPLICABILITY.

This subchapter shall apply to any dwelling or structure located within the village which is actively metered and connected to the village water system and which by said connection receives periodic billing statements from the village for such service. In the absence of a metered water supply, a property owner who is identified by the village as utilizing the collection service, such property owner will be billed as if they connected to the village water system.

(Ord. 2-2011, passed 5-23-2011)

§ 50.34 SCOPE OF SERVICE PROVIDED.

The village will contract with a service provider on an annual basis for the weekly curbside removal of residential waste in containers prescribed by the provider according to the terms of the contract.

(Ord. 2-2011, passed 5-23-2011)

§ 50.35 BILLING; RATES.

(A) *Billing.* The village shall issue quarterly billing for the garbage collection on the village water bills for the property associated with the corresponding meter.

(B) *Rates.* The Village Board shall set the rate for the service on an annual basis. Such annual basis shall correspond with the contract term agreed upon by the village and the provider. The initial charge for this service shall be \$25 per quarter per metered parcel located within the village.

(Ord. 2-2011, passed 5-23-2011)

§ 50.36 RESPONSIBILITY OF PAYMENTS; DELINQUENT PAYMENTS.

(A) *Responsibility of payments.* The owners of all structures served by a metered connection to the village water supply, either individually or by an association representing them, shall agree to guarantee payment of all charges which accrue against all structures. When a structure served by the village water system becomes vacant, owner shall give notice to the village specifying the date of such vacancy, and the owner of the structure shall be liable for all garbage collection fees until such notice is given.

(B) *Delinquent payments.* If there shall be any payments which are due to the village or any department thereof, pursuant to any section of this subchapter, which shall remain due and unpaid, in whole or in part, for a period of 30 calendar days from the date of billing by the village, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to 10% of the original bill, and interest shall accrue on the unpaid balance, at the rate of 2% per month, retroactive to the date of the original billing.

(C) *Liens.* The garbage collection fee shall constitute a lien upon the structure deemed covered by the service. The lien shall be prior and superior to every other lien or claim except the lien or an existing tax assessment or other lawful charge imposed by the village or for the state or political subdivision thereof.

(Ord. 2-2011, passed 5-23-2011)

§ 50.37 EXEMPT STRUCTURES; FINES.

(A) Any structure which primary purpose is a business as defined in the village zoning law and does not contain a dwelling unit, shall be exempt from the garbage collection fee upon the filing of an affidavit signed by the property owner and filed with the Village Clerk. Such affidavit must state that the structure has been zoned commercial pursuant to the village zoning law, that the structure is not used as dwelling, and the occupants of said structure do not utilize the garbage collection service.

(B) If the occupant of a structure who has been granted an exemption is deemed in the opinion of the village to have utilized the garbage collection service, the owner of said structure shall be fined the amount of \$100 for every such

occurrence. Said fine shall be assessed after a hearing held in conformance with the procedures set forth in Chapter 52 of this code. Each violation shall be separate and distinct violation. Such penalty may be recovered in an action brought by the Village Attorney at the request of the Village Board in the name of the village in any court of competent jurisdiction. In addition to the above described penalty, the village may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities. Such fine may be released or compromised by the Village Board before the matter has been referred to the Village Attorney, and where such matter has been referred to the Village Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Village Attorney, with the consent of the Village Board.

(Ord. 2-2011, passed 5-23-2011)

RECYCLING AND ALTERNATIVE DISPOSAL

§ 50.40 MANDATORY RECYCLING.

For the purpose of being able to react promptly to recycling requirements of the county and the state, the Board of Trustees is hereby empowered to adopt by resolution an official list of mandatory recyclable materials. The list may be changed from time to time by resolution of the board. Failure to recycle materials on this official list, except where otherwise excepted by this chapter, shall be a violation of this chapter.

(Prior Code, § 7-1-8)

§ 50.41 RECYCLING EXCEPTIONS.

The provisions for recycling waste need not be complied with when the person contracts with a private disposal service and the private disposal service permits waste of all types to be mixed together in a dumpster or other suitable container which will then be properly disposed of by the private disposal service.

(Prior Code, § 7-1-10)

§ 50.42 ALTERNATE DISPOSAL METHODS.

Nothing in this chapter shall be deemed to prohibit any person from contracting with a private hauler for removal of waste and recyclables. Nothing in this chapter shall be deemed to prohibit any person from disposing or causing to be disposed of waste and recyclables at a landfill or transfer station operated by the county, their duly designated representative, or with a private firm properly authorized to dispose of these materials.

(Prior Code, § 7-1-11)

§ 50.99 PENALTY.

A person convicted of violating any provision of this chapter shall be guilty of a violation which is punishable as follows.

- (A) For a first conviction, by a fine of \$100, or imprisonment for 15 days, or both.
- (B) For a second conviction within one year, by a fine of \$150, or imprisonment for 15 days, or both.
- (C) For a third conviction within one year, by a fine of \$200, or imprisonment for 15 days, or both.
- (D) For a fourth and all subsequent convictions within one year, by a fine not less than \$250 nor more than \$500, or imprisonment for 15 days, or both.

(Ord. 1-2006, passed 1-9-2006)