

Chapter 7
Solid Waste

Article I	Regular Solid Waste Collection
Section 7-1	Grant of Franchise
Section 7-2	Commercial Properties
Section 7-3	Containers
Section 7-4	Adequacy of Containers
Section 7-5	Public Dump
Section 7-6	Penalties
Article II	Large Item and Bulk Solid Waste
Section 7-7	Bulk Item Solid Waste

History: This Chapter was Ordinance 02-0930-01 (adopted October 21, 2002).

Article I Regular Solid Waste Collection

Section 7-1 Grant of Franchise

Independent Disposal Services, Inc. a Delaware corporation, its successors and assigns (hereinafter referred to as “Grantee”), is hereby granted the exclusive right, franchise and privilege of using the streets, alleys and other public ways in the City for the collection of solid waste from all residential and light commercial (retail) properties located within the City. The term of Grantee’s franchise shall run from the date of adoption of this Chapter until March 31, 2005 thereafter unless extended by the mutual agreement of the City and Grantee or earlier terminated by judicial decree or mutual agreement of the City and Grantee. The terms of such franchise shall be set forth in a written instrument executed by Grantee and the City Manager and approved by City Council at the adoption of this Chapter. During the term of Grantee’s franchise, no owner, tenant or occupant of residential or light commercial (retail properties in the City shall be permitted to retain the services of any other solid waste disposal service for purposes of collecting solid waste from all residential and light commercial (retail) properties located within the City. Upon the expiration of Grantee’s franchise hereunder, City Council shall be empowered to grant further franchises for the right to collect solid waste in the City to either Grantee, or such other qualified parties upon such terms and conditions as may be deemed appropriate by Council. City Council shall further be empowered to adopt by resolution reasonable rules and regulations applicable to the collection of solid waste by Grantee or any subsequent franchisee with such rules and regulations to be enforced jointly or separately the City Manager and the Board of Health.

Section 7-2 Commercial Properties

The owners, tenants and occupants of properties used for commercial or industrial purposes shall be jointly and severally responsible for contracting privately for the collection and disposal of solid wastes from such properties so as to keep such properties in full compliance with this Article and all other applicable state, federal or municipal health and sanitation codes, statues, ordinances, rules and regulations. All private solid waste collection service organizations servicing properties in the City used for commercial or industrial purposes must at all times be registered with and licensed by the City Manager in order to provide such services. The Board of Health and the City Manager shall promulgate rules and regulations pertaining to the issuance of licenses for the collection of garbage and solid waste in the City.

Section 7-3 Containers

a.) It shall be unlawful for any person to place or cause any solid waste generated by any property in the City used for residential or light commercial (retail) purposes to be placed in any receptacle or container unless such receptacle or container is approved by the City. Any solid waste containers or receptacles supplied by Grantee, or by a subsequent holder of a similar franchise, to City residents shall be deemed approved by the City. Grantee, and the subsequent holders of any similar franchise, shall provide a single solid waste collection container for use by the tenant or occupant of each property used for residential and light commercial (retail) purposes in the City. Grantee, and the subsequent holders of any similar franchise, shall be entitled, with Council's prior consent, to charge the owners, tenants or occupants of each property in the City used for residential and light commercial (retail) purposes, a monthly fee at uniform rates for any additional solid waste containers that may be required to comply with all applicable City ordinances, rules and regulations concerning health, sanitation and the disposal of solid waste.

b.) It shall be unlawful for any person to place or cause to be placed in a receptacle or container any garbage or solid waste that is to be collected and removed by the City, Grantee, or any other agency or private concern unless such garbage or solid waste has been drained of its moisture and contained in a plastic bag or other appropriate wrapping. All garbage and solid waste awaiting removal or disposal shall be covered in containers with tight-fitting lids.

c.) No person shall deposit or cause to be deposited for collection any garbage, refuse, rubbish or other solid waste for more than fifteen (15) hours prior to the regularly scheduled hour of collection for that particular location, as set forth by the City Manager.

Section 7-4 Adequacy of Containers

a.) The owners of all properties in the City, whether used for residential, commercial, industrial or other purposes, shall be obligated to ensure that an adequate number of solid waste disposal containers exists at all times on their respective properties so as; 1.) to prevent the existence and creation of any public nuisance; 2.) to ensure the continued public health, safety and welfare; and 3.) to provide for the full and continuous compliance with all applicable City ordinances, rules and regulations concerning health, sanitation and the disposal of solid waste. The Board of Health and the City Manager shall each have authority to make the determination as to a property owner's compliance or non-compliance with this Section.

b.) The determination of the City Manager or the City's Board of Health of a violation of this Section on three (3) or more occasions in any twelve (12) month period at any property in the City shall be prima facie evidence that the number of solid waste containers utilized at such

property is inadequate. The owner of such property shall, upon five (5) days written notice from the Board of Health or the City Manager secure as many additional solid waste containers as may be necessary to fully comply with the provisions of this Section. The City, at its sole discretion, may cause the placement of such additional solid waste containers on the property of any owner in violation of this Section as may be sufficient to cause the full compliance with the provisions of this Section with the cost of such additional containers, including any rental charges assessed by Grantee for additional containers, being assessed against the property owner. Such assessment shall constitute a lien on the property where such violation existed in favor of the City and the Grantee until paid in full.

Section 7-5 Public Dump

No rubbish, refuse, garbage or other solid waste shall be deposited on any public or private dump or place in the City except in accordance with all rules and regulations promulgated by the Board of Health and the City Manager.

Section 7-6 Penalties

Whoever shall be in non-compliance with this Article shall be deemed in violation of the provisions of Chapter 21 of this Code concerning Health and Sanitation and shall be subject to the penalties and provisions set forth in Section 21-8 and Section 21-9 thereof. The City, at its sole discretion, may cause the removal or abatement of such violating condition and may assess the property owner with the reasonable costs of removal and disposal. Such assessment shall constitute a lien on the property where such violation existed until paid in full.

Article II Large Item and Bulk Solid Waste

Section 7-7 Bulk Item Solid Waste

a.) Definitions. For purposes of this Article and for purposes of any rules and regulations adopted pursuant to this Code, “large items” and “bulk solid waste” shall be deemed to mean any item, or any box, pile, bundle, bag, or other container containing multiple items, of refuse, garbage, or trash, including but not limited to, any derelict appliance, furniture, bedding, equipment, building materials, or any other organic or inorganic waste of any nature whatsoever left on the exterior of any private property or in the public rights-of-way in the City of Delaware City weighing more than fifty (50) pounds or being more than four (4) feet in length. For purposes of this Chapter, the word “person” shall mean any individual, corporation, partnership, limited liability company, limited liability partnership or any other entity owning or occupying real estate in the City of Delaware City.

b.) Fine. Whosoever shall leave a large item or bulk solid waste on the exterior of any public or private property without having pre-arranged for the pick up of such large item or bulk solid waste with the City pursuant to rules and regulations adopted by the City for such purpose and paid the appropriate fee for such pick up shall be guilty of a violation punishable by a fine of \$100.00 per day for each day that such large item or bulk solid waste remains on the exterior of such private property or the public right-of-way in violation of this Article. The City, at its sole discretion, may cause the removal of such large item or bulk solid waste and may assess the property owner and the occupant of such property to recover reasonable costs of removal and disposal. Such assessment shall constitute a lien on any private property involved until paid in full.

c.) Exception. A person shall be excused from paying such fine provided they have removed such large item or bulk solid waste from the exterior of any private or public property in the City of Delaware City, or otherwise properly disposed of same in accordance with all applicable governmental laws, ordinances, rules and regulations within the twelve (12) hours of receipt of written notice of such violation. For purposes of this Article, a person shall be deemed to have received written notice of a violation of this Article at the time of placement or attachment by any City police officer or other public official on the large item or bulk solid waste in question of a written violation notice specifying the date, time and location of the violation and further advising of the amount of the fine provided hereunder. In order to avoid assessment of the fine provided for hereunder, it shall be the responsibility of the owner, tenant or occupant of the property in question to notify the City of Delaware City in writing of the timely removal of the

large item or bulk solid waste such written notice to be provided within one business day of issuance of the violation notice.

d.) Joint Liability. In the case of properties that are not owner occupied, any fine assessed hereunder shall be the joint and several responsibility of the property owner and any tenant or occupant of the property at the time the violation notice was issued.