

ORDINANCE NO. 21-2012

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, AMENDING CHAPTER 53 OF THE VALPARAISO CODE OF ORDINANCES ENTITLED "REFUSE AND RECYCLING."

WHEREAS, Chapter 53 of the Valparaiso Code of Ordinances is entitled "Refuse and Recycling"; and

WHEREAS, Chapter 53 of the Valparaiso Code of Ordinances sets forth certain fees, rules and regulations governing the City of Valparaiso's collection of garbage and refuse within the geographical boundaries of the City; and

WHEREAS, the Common Council of the City of Valparaiso, Indiana, is desirous of amending Chapter 53 of the Valparaiso Code of Ordinances in order to revise the aforementioned fees, rules and regulations governing the City's collection of garbage and refuse; and

WHEREAS, on August 27, 2012, the Common Council of the City of Valparaiso, Indiana convened a public hearing in conformance with the requirements of Ind. Code § 36-9-30-21 at which users of the City's facilities, the owners of property served or to be served by the facilities and other interested parties were given an opportunity to be heard concerning the proposed fees.

NOW, THEREFORE, BE ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, AS FOLLOWS:

Section 1. Section 53.01 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.01 DEFINITIONS.

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

BULK ITEMS. All appliances, furniture, mattresses, and children's play equipment that will not fit into the disposal unit and requires a special pick-up.

CITY. The City of Valparaiso.

CONTRACTORS. Any paid business or individual, or any business or individual that as part of their craft or employment performs work on any property within the city.

CURBSIDE. Adjacent to the street pavement, alley pavement and gutter, within three feet thereof. The Public Works Director, as required to provide quality service, shall define **CURBSIDE**.

DISPOSAL UNIT. The wheeled container(s) selected and approved by the Board of Public Works and Safety for the purpose of disposing of refuse.

DUMPSTERS. Any container larger than 96 gallons used for the collection of any and all types of refuse.

HOUSEHOLD CONSTRUCTION AND DEMOLITION DEBRIS. Waste materials from do it yourselfers, interior and exterior household construction, remodeling and repair projects, including, but not limited to, drywall, plywood and paneling pieces, lumber and other building materials; windows and doors; cabinets; carpeting; disassembled bathroom and kitchen fixtures.

MULTI-FAMILY DWELLINGS. Any and all structures or complexes with more than four apartments, condos, town homes, and the like.

PATRON.

(1) A **RESIDENTIAL PATRON** is any person residing in the city corporate limits. A **RESIDENTIAL PATRON** shall receive full services as defined in this chapter.

(2) ~~A **NON-RESIDENTIAL PATRON** is any firm or corporation, producing any type of waste material covered by the regulations of this chapter. **NON-RESIDENTIAL PATRONS** are required to enter into a contract for services.~~ A **BUSINESS PATRON** is any firm or corporation, producing any type of waste material covered by the regulations of this chapter. **BUSINESS PATRONS** are required to enter into a contract for services with a private trash hauler or with the City of Valparaiso as defined in this ordinance .

(3) In the case of a ~~firm or corporation~~ business, **PATRON** is construed to mean the principal agent, office, or employee responsible for the firm or corporation.

~~(4) **PATRON** shall mean both residential and non-residential.~~

REFUSE.

(1) The terms **GARBAGE, REFUSE, RUBBISH, SOLID WASTE, TRASH** and **WASTE** shall be synonymous, unless more specifically defined.

(2) All discarded and unwanted household and kitchen wastes, including, but not limited to, food, food residues, and materials necessarily used for packaging, storing, preparing, and consuming the same, usually defined as garbage, and all waste materials resulting from the usual routine or domestic housekeeping, including, but not limited to, aluminum and steel cans; glass containers; plastic containers; crockery and other containers; metal; paper of all types, including newspapers, books, magazines and catalogs; boxes and cartons; cold ashes; furnishings and fixtures; textiles and leather; toys and recreational equipment; and similar items.

(3) All non-putrescible solid and semisolid items of waste, including bulky refuse except for the following:

- (a) Liquids;
- (b) Liquid or water carried wastes which are normally disposed of in sanitary sewer systems; hazardous waste;
- (c) Human waste, except for disposable diapers;
- (d) Large animal and farm animal waste;
- (e) Grass clippings.

RECYCLABLES or RECYCLABLE MATERIAL(S). At a minimum, newsprint (ONP); empty and clean: aluminum cans; steel cans (tin and bi-metal); ~~empty~~ aerosol cans; paint cans; oversized cans; glass bottles and jars (clear, flint, amber and green); all PET (polyethylene terephthalate) plastic containers; all HDPE (high density polyethylene) plastic containers (thoroughly cleaned oil containers); LDPE (plastic beverage rings and carriers); all chipboard (boxboard); all corrugated cardboard (OCC and craft paper); coated paper (magazines and catalogs); mixed paper (white ledger, color ledger, computer paper, phone books and junk mail).

YARD WASTE. Leaves, limbs, sticks, and other vegetative matter, plants or trees with the exception of grass clippings.

Section 2. Section 53.02 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.02 REFUSE/GARBAGE COLLECTION FEE.

(A) A refuse/garbage collection fee shall be assessed against each resident/owner of real estate or the improvements contained thereon being served by the city refuse/garbage collection service. The city refuse/garbage collection service shall serve each single family residential unit and each duplex located within the city. In addition, the city refuse/garbage collection service shall serve fourplex multi-family residential units. However, refuse/garbage will not be picked up from and no fee will be charged to the following unless the owner or its representative enters into a contract for services with the City of Valparaiso as required by this Chapter:

- (1) Multi-family residential units larger than a fourplex;
- (2) A multi-family residential unit which is part of an apartment complex;
- (3) ~~Two or more fourplexes which are adjacent to each other and which are owned by the same person or entity. More than four units in a single building, or Multiple buildings adjacent to each other or within a complex, which are owned by the same person or entity;~~

(4) Industrial properties.

(B) Limited weekly refuse/garbage collection services may be offered to business properties. The business properties must request such service and must generate no

more refuse/garbage than can be contained in three (3) Disposal Units ~~96-gallon collection containers~~. The Director of Public Works may implement reasonable rules and regulations concerning the collection of refuse/garbage from commercial properties.

(C) Refuse/garbage collection services may be provided to properties located on private roads. Prior thereto, the Director of Public Works shall secure legal waivers of liability from the owners of such private roads holding the city harmless from any liability for road or property damage caused by the refuse/garbage collection services. The Director of Public Works may develop and implement reasonable rules and regulations concerning such collections.

(D) A refuse/garbage collection fee is hereby established as follows:

(1) For residential refuse/garbage collection, a flat rate amount of ~~\$9~~ \$12 per month per unit served. Residential refuse/garbage collection customers qualifying as low income residents shall be assess a reduced flat rate fee of \$6 per month. To qualify as a low income resident, a resident must have an income level no greater than 150% of the federally established poverty guidelines. Residents may qualify for the reduced monthly fee by applying for such reduction through the Office of the City Clerk-Treasurer. Additional disposal units will be charged at an additional ~~\$6~~ \$9 per month per unit.

(2) For ~~commercial refuse/garbage collection~~ collection of Business Patron refuse/garbage, a flat fee of ~~\$12~~ \$15 for each ~~96-gallon collection container~~ Disposal Unit up to the maximum of three (3) such containers Units.

(E) The refuse/garbage collection fee shall be billed and collected by the Valparaiso city utilities in conjunction with the city sanitary sewer and water billing. All refuse/garbage collection fees shall be due upon billing by the Valparaiso city utilities and if not paid within 30 days, shall be subject to a penalty of 10%.

(F) The fees collected pursuant to this section shall be deposited by the Valparaiso Clerk-Treasurer into the general fund of the City of Valparaiso. An amount equivalent to the revenue generated by the net fees collected pursuant to this section shall be allocated, used and appropriated for road maintenance and repair and sidewalk and pathway installation, maintenance, and repair. Funds will be allocated solely and exclusively for road maintenance and repair and sidewalk and pathway installation, maintenance, and repair.

(G) The new refuse/garbage collection fee established by this section shall be in force and effect as of the bills dated October 5, 2012. All prior refuse/garbage collection fees established shall remain in full force and effect until the beginning of the consumption period for such billing date. ~~June 1, 2005~~.

Section 3. Section 53.10 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.10 GENERAL DESCRIPTION.

(A) Valparaiso Public Works provides a weekly curbside collection and disposal-processing services of all residential refuse, recyclables and yard waste as defined herein, within the corporate limits of the city.

(B) Any changes to the boundaries or service area as the result of events including, but not limited to, annexation; zoning actions; site plan approvals; or construction, shall be communicated to and approved by the Board of Public Works and Safety and/or the Common Council.

(C) All collection points receiving the aforementioned services shall be required to prepare all materials for collection and/or disposal into proper Disposal Units. The city will collect only properly prepared Disposal Units. Customers will be provided one (1) Disposal Unit. Additional Disposal Units may be provided for an additional fee as described in this ordinance. ~~96-gallon unit. Forty-eight-gallon disposal units may be provided on a limited basis.~~

Section 4. Section 53.12 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.12 RECYCLABLE MATERIALS.

(A) Recyclable materials set out for collection shall be collected, ~~processed~~ and marketed by the city. Patrons may place unlimited amounts of accepted recyclable materials in the blue 18-gallon plastic bin containers or large yellow lid wheeled containers with recyclables only sticker provided free of charge by the city. ~~Only One (1) container will be provided per collection point. If requested, an additional container may be available at no additional charge. Additional Recyclables properly prepared must be~~ may also be placed in clear bags next to the plastic containers. Containers are property of the City of Valparaiso.

(B) When recyclable materials (including but not limited to; appliances, scrap metal, aluminum/tin cans, etc.) are placed at curbside, they become the property of the city and no person/persons other than city employees/authorized city representatives or the residential user may remove such materials, except as otherwise provided by the Board of Public Works and Safety. Recyclable materials and containers may not be left at the curbside collection point, or any point on the street for more than a 24-hour period.

Section 5. Section 53.13 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.13 RECYCLING CONTAINERS

(A) The city shall provide to each collection point ~~one~~ a container to be used for the collection of recyclables. An additional container may be provided at no charge.

(B) The Public Works Director shall have the authority to identify additional recyclable articles under the solid waste management program.

(C) Recycling containers, as provided by the city, shall remain the property of the city.

(D) Recycling containers shall remain with the dwelling unit even upon changes of patrons or transfer of ownership.

(E) Recycling containers must be placed within five feet of the collection point ~~before~~ by 7:00 a.m. on the scheduled refuse collection day and returned to storage by 7:00 p.m. on that day.

(F) Recycling containers may not be at the curbside collection point, or any point, on the street for more than a 24-hour period.

Section 6. Section 53.14 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.14 YARD WASTE

Yard waste shall be collected throughout the city in a timely fashion and on the schedule as established by the Director of Public Works.

Section 7. Section 53.15 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.15 AUTOMATED COLLECTION SYSTEM.

(A) Disposal units are the property of the city. If for some reason they are broken or damaged through normal use they will be replaced and/or repaired at no cost. If the disposal container unit is damaged by fire, chemicals, vehicles or other abnormal reasons, lost or stolen the full replacement cost of the disposal unit will may be charged to the patron requesting service.

(B) As property of the City, the disposal units are to remain at the property and must not be removed.

(C) Patrons must use the 96 or 48-gallon wheeled containers disposal unit provided by the city for disposing of residential, retail, commercial and/or office refuse.

(D) Patrons are responsible for cleaning the disposal unit.

(E) All refuse must be placed in the disposal unit.

(F) Disposal units must be placed within five feet of the curbside collection point before by 7:00 a.m. on the scheduled refuse collection day. and returned to storage by 7:00 p.m. on that day.

(G) Disposal units may not remain at the collection point, in front of a building or residence when such location would be obnoxious to neighboring residents curbside for any period longer than 24 hours after the scheduled refuse collection day.

(H) Disposal units must be at least three feet from any obstruction (telephone poles, mail boxes, cars, and the like).

(I) Disposal unit lids must be closed.

(J) If the Director of Public Works determines the need of a second container, one will be provided at the regular monthly charge described in this ordinance. If a patron has two containers they must be placed at least three feet apart.

(K) For pick-up of large bulk items and household construction and demolition debris that will not fit into the disposal unit, the Public Works Office must be notified 24 hours prior to regular refuse collection to schedule an additional pick-up.

Section 8. Section 53.17 of the Valparaiso Code of Ordinance is hereby revised and amended as follows:

§ 53.17 UNITS COLLECTED.

Collection shall be ~~one 96-gallon or 48-gallon~~ the disposal units provided by the City of Valparaiso and assigned to the as requested by the assigned to patron only. No other containers will be picked up, including refuse outside or on top of the unit. Additional units are available upon request and at the monthly rate as established by the Board of Public Works and Safety and the Common Council.

Section 9. Section 53.19 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.19 ACCUMULATION ON PRIVATE PREMISES; DISPOSAL UNITS

(A) All persons having, making, or accumulating trash, yard waste, or other unwholesome and waste materials, shall keep the same in disposal units provided by the city and shall place the disposal units at the designated location for weekly collection.

(B) It shall be unlawful to set any container larger than a ~~96-gallon~~ City disposal unit curbside, excepting that dumpsters shall be allowed for apartment complexes, commercial, retail and office complexes when the city disposal unit(s) is/are not acceptable in size and/or cost or as otherwise approved by the Director of Public Works.

(C) Dumpsters are permitted for construction debris and large volume waste as previously stated. Dumpsters may not be placed on city streets, sidewalks or right-of-ways without written permission from the Director of Public Works.

Section 10. Section 53.20 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.20 CONSTRUCTION DEBRIS

(A) ~~Small amounts of~~ Household construction and demolition debris not to exceed three cubic yards may be placed in suitable containers that are in good condition, have secure handles for lifting, are water tight sufficient to keep out rain water, do not exceed 30 gallons and/or 30

pounds or in bundles not exceeding two feet in diameter, four feet in length. The Public Works Director or designee may determine that the amount of construction and/or demolition debris is too much for the City to pickup and may require a private hauler be used to remove the debris. A fee, as established ~~annually~~ by the Board of Public Works and Safety, is charged for the collection of construction debris and may be paid at Public Works.

(B) Construction and demolition debris may not be at the curbside collection point or any point on the street for more than a 24-hour period.

Section 11. Section 53.22 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.22 ABANDONED OR UNATTENDED APPLIANCES

(A) Abandoning or leaving freezers, refrigerators, iceboxes, ice chests, and other major appliances is subject to the regulations as set forth in this chapter. The provisions of this chapter shall apply to any freezers, refrigerators, iceboxes, ice chest, dryer, washer, or any other major appliances having a capacity of one and one-half cubic feet or more.

(B) No person, firm, corporation, or organization shall abandon any refrigerator, freezer, icebox, ice chest, or other appliance any place within the city.

(C) No person shall leave any refrigerator, freezer, icebox, ice chest, or other appliance any place out-of-doors without the doors removed.

(D) The purpose of this chapter is to prevent ~~children~~ individuals from ~~dying for the lack of air suffocating as a result of being locked~~ trapped in such a refrigerator, freezer, icebox, ice chest, ~~freezer~~ or other major appliance.

(E) Any person, firm, corporation, or organization that shall desire to have a refrigerator, freezer, icebox, ice chest, ~~freezer~~ or other major appliance removed must:

- (1) Request a pick-up from Public Works at least 24 hours prior to collection day;
- (2) Remove the door(s); and
- (3) Place the refrigerator, freezer, icebox, ice chest, ~~freezer~~ or other major appliance within three feet of the curbside.

(F) Appliances will only be picked up on regular trash collection day.

(G) Appliances may not be left at the curbside collection point, or any point on the street for more than a 24-hour period.

Section 12. Section 53.23 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.23 DUMPSTERS

Any person who desires to place a dumpster on public property must obtain a permit from Public Works. The permit will be issued based on the following criteria:

(A) Prior to the locating of any dumpster on or in a public street or alley in the City of Valparaiso, all refuse companies must obtain a permit from the Director of Public Works. Permits shall be issued for a maximum period of ten days and are renewable for additional periods of ten days at the discretion of the Director of Public Works. Dumpsters may not be placed within 50 feet of an intersection or in such a manner and fashion so as to cause traffic safety problems by unreasonably blocking the normal flow and pattern of traffic. No dumpster may be placed so as to block a public sidewalk.

(B) The refuse company shall provide barricades and/or traffic control devices meeting the minimum criteria contained in the Manual On Uniform Traffic Control ~~Devises~~ Devices for Streets and Highways in the State of Indiana. Refuse companies shall be responsible for installing and maintaining the required barricades and/or traffic control ~~devises~~ devices.

(C) The refuse company shall sign a liability statement assuming all risks associated with the placement of the dumpster in any public street or alley and shall provide to the Director of Public Works proof of liability insurance which shall name the City of Valparaiso as a co-insured with liability limits determined by the Director of Public Works.

(D) Failure to follow any of these policies shall be reason for denial or revocation of a permit and a pattern or practice of violating these regulations shall be grounds for denial of future permits to a refuse company.

(E) A refuse company may appeal any decision of the Director of Public Works ~~and Safety~~ concerning these regulations to the Valparaiso Board of Public Works and Safety.

Section 13. Section 53.35 of the Valparaiso Code of Ordinances is hereby revised and amended as follows:

§ 53.35 FEES; REVENUES

(A) The Board of Public Works and Safety shall charge a fee in support of the city's solid waste management program. ~~The fees shall be reviewed and approved annually.~~ The fees shall be reasonable and just and reasonably related to support the following activities and services of the city:

(B) Fees will be charged for the following items:

- (1) Refuse in excess of the provided disposal unit;
- (2) Monthly refuse collection; and

(3) Disposal units – replacement for abnormal use ~~lost or stolen~~.

(C) The solid waste management fee shall be payable monthly and shall be billed, whenever practical to do so, with the city utility bill associated with charges for water, wastewater, and other services.

(D) The solid waste management fee imposed under this chapter may be temporarily waived for such period of time, as is concurrent with the period of the temporary cessation of water service. The temporary waiver for fees imposed under this chapter will cease upon resumption of water services.

(E) (1) The solid waste management fees imposed under this chapter may only be refunded for such period of time that is concurrent with the period of the temporary cessation of service, owing to extended absence for the residential patrons.

(2) In order to determine the length of time for which a refund may be made, the following apply:

(a) No refund will be given for any month in which there is evidence of more than minimum water consumption; and

(b) No refund will be given without reasonable documentation of actual absence, which may include but not be limited to out-of-state utility bills, active bank accounts and the like.

(F) The solid waste management fee and other fees shall be approved by the Board of Public Works and Safety, and charged according to the published schedule and shall remain in effect as indicated until such time as they may be modified or rescinded by passage and adoption of an ordinance, pursuant to the terms of Indiana law.

(G) *2005 fees.* Fees

Disposal units replacement	Based on actual cost of container
Refuse in excess of disposal unit	\$15 per cubic yard
Fines	\$50 per occurrence

(H) The Board of Public Works and Safety sets the price for mulch sales and concrete disposal.

(I) Residential patrons choosing to not use the solid waste management service are still required to pay the monthly fee.

(J) Apartments (more ~~that~~ than four units), offices, retail, restaurants, commercial, and ~~the~~ like, ~~non-residential~~ business patrons are not required to use the City's solid waste management service, but may do so through a contract with the city.

(K) Revenues from fees and charges shall be deposited into a general budget and shall be used exclusively for the purchase of equipment, supplies, transfer station fees and other expenses as directly related to the cost of collecting, handling, transporting and disposing of refuse and recyclables.

Section 14. Section 53.36 of the Valparaiso Code of Ordinances is hereby added as follows:

§ 53.36 EXTRA SERVICES

The Public Works Director may designate "Clean Up Days" in which extra trash and/or recycling services are provided. Dates, times, rules and guidelines may be established and promoted by the Public Works Department. Extra services may be provided for neighborhood clean up, roadside clean up, community festivals and events.

Section 15. Section 53.99 of the Valparaiso Code of Ordinance is hereby revised and amended as follows:

§ 53.99 PENALTY

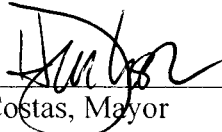
The Public Works Director and/or his designee shall have the authority to enforce violations of any provisions of this chapter. Violations of any provision of this chapter are subject to a \$50 fine per occurrence, per day and are enforced through the City of Valparaiso Ordinance Violations Bureau.

Section 16. Any and all other provisions of Chapter 53 (Refuse and Recycling) of the City of Valparaiso, Indiana's Code of Ordinance shall remain in full force and effect.

Section 17. If any portion of this Ordinance shall be held invalid or unconstitutional by and court of competent jurisdiction, such decision shall not effect any other portion or provision of this Ordinance.

Section 18. This Ordinance shall be in full force and effect from and after its adoption and any publication required by law.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a 5-1 vote of all members present and voting this 27th day of August, 2012.



Jon Costas, Mayor

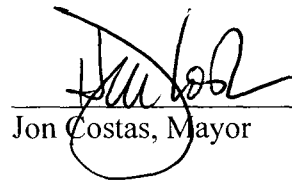
ATTEST:


Sharon Swihart, Clerk-Treasurer

Presented to me by the Mayor of the City of Valparaiso, Indiana, this 31st day of August, 2012, at 8:30 o'clock Am.


Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 31st day of August, 2012, at 8:30 o'clock Am.


Jon Costas, Mayor