

MEDARYVILLE TOWN COUNCIL

ORDINANCE NO. 2016-10-01

ORDINANCE ESTABLISHING THE SERVICE CHARGE FOR THE COLLECTION & REMOVAL OF GARBAGE & DECLARING UNLAWFUL DEPOSITS OF GARBAGE ON REAL ESTATE A PUBLIC NUISANCE

WHEREAS, on May 12, 2009, the Medaryville Town Council enacted Ordinance No. 2009-05-01 entitled "*Ordinance Establishing the Service Charge for the Collection & Removal of Garbage Within the Town of Medaryville, Pulaski County, Indiana;*" and

WHEREAS, following the passage of Ordinance No. 2009-05-01, on December 19, 2009, the Medaryville Town Council enacted Ordinance No. 2009-12-1 entitled "*An Ordinance Amending Ordinance No. 2009-05-01 for the Service Charge for the Collection & Removal of Garbage Within the Town of Medaryville, Pulaski County, Indiana;*" which said amendment established the current service charge of \$13.92 per month for garbage removal; and

WHEREAS, the Town desires to maintain the current service charge of \$13.92 per month, however, the Town now desires to define garbage, add additional provisions regarding removal of garbage and related items (such as inoperable mechanical equipment, boats, construction debris, etc...), and declare that the accumulation of garbage and related items constitutes a health and safety problem in the Town and causes diminution in value of real estate within the Town; and

WHEREAS, so all legislation regarding garbage service charge and nuisance provisions is contained in one document, the Town desires to repeal Ordinance No. 2009-05-01 and Ordinance No. 2009-12-01.

NOW, THEREFORE, BE IT ORDAINED by the Medaryville Town Council for the Town of Medaryville, Indiana, as follows:

1. **Definition(s)**. For purposes of this Ordinance, these words shall be defined as follows:

- a. **Garbage**. Any and all refuse accumulation of the following:
 - (i.) Animal, fish, fowl, fruit, or vegetable matter that results from the preparation, use, cooking of meats, fish, fowl, fruit, or vegetable;
 - (ii.) Other substances, including but not limited to lawn cuttings, green shrubbery, and leaves; and/or
 - (iii.) Material resulting from ordinary household and commercial operations including but not limited to such items as cans, glass, bottles, ashes, papers, magazines, newspapers, boxes, rags, small cartons, and other items of refuse.
- b. **Hazardous Waste**. Hazardous waste shall include but not be limited to the following items: oil, oil filters, mercury, antifreeze, poisons, batteries, chemicals, oil based paints, fluorescent tubes.

2. **Collection/Removal Service Generally; Appointment of Contractors;**

Collection/Removal by Unauthorized Persons Prohibited: The collection and removal of garbage within the Town shall be administered, operated, conducted, and maintained by and through the Town Council and the terms of the provisions of this Ordinance. 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 dispose of garbage. No person or entity shall collect, remove, dispose, or otherwise deal with the collection and removal of garbage within the Town unless expressly authorized to do so by the Town Council. The Town shall have the power to promulgate and formulate rules and regulations relative to the collection and disposition of garbage provided that such rules and regulations are not in conflict with the provisions of Ordinance or the laws of the State. It is a violation of this ordinance for any person to fail to comply with such rules and regulations.

3. **Service Charge:** There is hereby imposed on each owner of real property in the Town of Medaryville, Indiana, for every occupant or tenant to whom municipal garbage collection is made available by town directly, or through any person, firm, or corporation with which the town may contract for the furnishing of such service, a service charge for the collection and removal of garbage according to the following schedule:

\$ 13.92 per month.

4. **Billing and Payment:** The service charges, as referred to above, shall be added to the user's water charges and shall be payable as are bills for water service. If any recipient of municipal garbage collection service is not a recipient of municipal water service and does not therefore receive a water bill, the recipient will be billed directly for the service and the bill will be payable on the same basis as are bills for municipal water service.

5. **Inclusion of services for payment:** Payment of service charges, as specified above, shall entitle the recipient of the service to one collection of garbage per week and one (1) 96-gallon roll-away-waste cart (RAWC), if said 96-gallon roll-away-waste cart (RAWC) is provided by the person, firm, or corporation with which the town may contract for the collection and removal of garbage. Collection service shall not include any items that the person, firm, or corporation with which the town may contract for the collection and removal of garbage is incapable of collecting and removing, which shall include and not be limited to motor oil, automobile batteries, heavy gauge steel, concrete, ashes, paint, pesticides, chemicals, liquids, or any item not easily handled by a one man crew. Residents are responsible for removing items of garbage that collection service incapable of removing.

6. **Nonpayment:**

- a. The service charge imposed by this Ordinance 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 property owner shall be liable for the service charge(s) if payment is not made by the tenant, occupant, or other non-owner when the charge is due. Such owner shall have the right to examine the town's collection records to ascertain whether such charges have been paid.
- b. The service charge levied pursuant to this Ordinance shall be due and payable on or before the due dates shown on the bills. Any service fee not paid by the due date shall be considered a delinquent account. Such delinquent fee, together with any applicable interest, shall be set forth in this section. All service charges for garbage not paid by the 15th day of the month following receipt are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates and charges shall thereupon attach thereto.
- c. Delinquent service fee(s) may be made a lien against the property served through certification to the auditor and the recorder of the county. In addition to the remedies provided 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 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. (State law references: I.C. 36-9-30-21 and I.C. 36-1-6-2, as the same may be amended from time to time).

7. **Unlawful Deposits/Public Nuisance.**

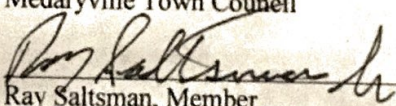
- a. It shall be unlawful for any person to dump, store, or accumulate any garbage and/or hazardous waste in, on, or under any real estate located in whole or are within the Town.
- b. In addition, it shall be unlawful for a person to dump, store, or accumulate inoperable boats, trailers, riding lawn mowers, push lawnmowers, items of junk (old or discarded articles that are considered useless or of little value), and/or construction materials and debris.

- c. The following items cannot be disposed of in the regular weekly garbage removal services provided by the Town and residents are responsible for disposing of these items:
- (1.) Hazardous waste;
 - (2.) Inoperable boats, trailers, riding lawn mowers, push lawnmowers, and items of junk sitting outside for long periods of time that can be scraped or recycled; and
 - (3.) Construction material and debris.
- c. Any violation of this Ordinance shall constitute a public nuisance.
8. **Violations.** If any person shall violate the provisions of this Ordinance, the Town may do the following:
- a. Initiate an action for injunctive relief in any court of competent jurisdiction;
 - b. After written notice to the owner of the property to remove any existing refuse, and if such owner shall have failed to completely comply with such notice within ten (10) days thereafter, enter upon the property to remove all of the garbage thereon situated, and to do such other things as may be necessary to protect the public health, safety, and welfare in connection with the removal;
 - c. Seek a monetary fine as follows:
 - First (1st) Violation: \$200.00
 - Second (2nd) & Subsequent Violations: \$250.00
 - d. Undertake any other action deemed necessary and appropriate to protect and preserve the public health, safety, and welfare.
9. **Repeal Prior Ordinances:** The following Ordinances are hereby repealed:
- a. Ordinance No. 2009-05-01 entitled "*Ordinance Establishing the Service Charge for the Collection & Removal of Garbage Within the Town of Medaryville, Pulaski County, Indiana*" enacted on May 12, 2009; and
 - b. Ordinance No. 2009-12-1 entitled "*An Ordinance Amending Ordinance No. 2009-05-01 for the Service Charge for the Collection & Removal of Garbage Within the Town of Medaryville, Pulaski County, Indiana*" enacted on December 19, 2009.

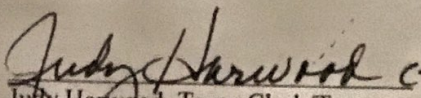
This Ordinance to be effective upon passage by the Town Council, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

Passed by the Town Council of Medaryville, Indiana, this 28th day of October, 2016 by a vote of 2 yes to 1 NO.


Robert Schultz, President
Medaryville Town Council

Suzanna Wilcoxon, Vice President
Medaryville Town Council

Ray Saltzman, Member
Medaryville Town Council

ATTEST:


Judy Harwood, Town Clerk/Treasurer
Medaryville, Indiana

