

TOWN OF LUMBERPORT

**AN ORDINANCE OF THE TOWN OF LUMBERPORT
PROHIBITING THE ACCUMULATION AND REQUIRING THE
DISPOSAL OF GARBAGE, REFUSE, DEBRIS, WASTES, ASHES,
TRASH AND OTHER SIMILAR ACCUMULATIONS WHETHER
ON PRIVATE OR PUBLIC PROPERTY; PENALTIES.**

WHEREAS, the Town of Lumberport is empowered under the provisions of Chapter 8, Article 12, Section 5(10) of the Code of the State of West Virginia, as amended, to prohibit the accumulation of garbage, debris, refuse, wastes, ashes, trash and other similar accumulations; and

WHEREAS, it is the judgment of the Council of the Town of Lumberport that the public health, safety and general welfare of the residents of the Town of Lumberport demand that accumulations of such wastes and other materials be prohibited and that provisions be made for the proper collection and disposition of said wastes;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
TOWN OF LUMBERPORT:**

That an ordinance relating to such services hereinabove identified be and the same is hereby enacted to read as follows:

Section 1. DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Garbage" includes all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of small animals, kitchen and table refuse, swill and every accumulation of both animal and vegetable matter that attends the preparation, decay or storage of meats, fish, fowl, birds or vegetables, but excluding recognizable industrial by products, and shall include all such substances from all

public and private establishments and from all residents.

- (b) "Refuse" includes garbage and trash, either or both.
- (c) "Trash" includes all nonputrescible wastes, including discarded and abandoned articles.

SECTION 2. PROHIBITED DISPOSAL.

- (a) No person shall deposit or dispose of any garbage, trash or other waste matter, or any carcass or part thereof or any offal upon any street, sidewalk, public place or vacant lot, or upon private premises owned or occupied by another, except that garbage and trash may be set out in receptacles for collection as provided in this article. No person shall deposit or dispose of any garbage, trash or other waste matter or any carcass or part thereof or any offal in any pond, lake, spring, well or watercourse or in any gutter or drain.
- (b) The provisions of this section shall apply within the City, and within public places, other than an approved dump, and with respect to ponds, lakes, springs and watercourses in unincorporated places within one mile beyond the Town in all directions.

SECTION 3. APPROVED REFUSE DISPOSAL SITE; EXCEPTION.

No person shall dump, burn, bury, destroy or otherwise dispose of any refuse within the City, except at a refuse disposal site established or approved by Council; provided, that persons licensed by the Town to collect refuse, as provided in this article, may dispose of refuse collected by them at such places as may be authorized for such purpose in their respective licenses, and then only pursuant to the laws and ordinances in effect at such disposal places.

SECTION 4. LITTER.

- (a) No person shall dispose of, or permit to be disposed of, litter of any kind at any place within the Town except in receptacles provided for such purpose.
- (b) Litter originating on any premises shall be disposed of by the owner or occupant of the premises as provided in Section 6.
- (c) Litter shall not be deposited or permitted to remain upon any place where it would be subject to scattering by children, animals, the elements of nature, or other means
- (d) "Litter" is hereby defined as paper, cartons, bottles, bottle caps, cans, fruit peelings and pits, food, glass, scraps or fragments of any kind, and other things which have come to be regarded by the public as litter.

SECTION 5. DUTY TO REMOVE DEBRIS; COLLECTION OF REFUSE FROM VACANT LOTS.

Building contractors, excavators and other persons who in the course of their respective businesses cause debris or refuse of any kind to accumulate at any place within the Town shall remove and dispose of such debris or refuse periodically before it becomes a hazard to the public health, safety or welfare, and at the completion of each project shall remove all such debris and refuse and dispose thereof in a sanitary and lawful manner; provided, that when debris or refuse accumulates on any vacant lot so as to become a nuisance and is not subject to removal by any contractor or other person as above provided, the Town may collect and dispose of such debris and refuse and the costs of such collection and disposal shall become a charge against the owner of such vacant lot and a lien thereon and shall be collectable in the same manner as taxes.

SECTION 6. MAINTENANCE OF PREMISES AND DISPOSITION OF REFUSE.

- (a) No person, being the owner, lessee, occupant or person in charge of any lot or parcel of land situated within the City, shall knowingly permit to remain thereon any unsightly condition, junk car or cars, collections of rubbish or debris or any other material whatsoever which creates an unsightly condition which is or may be observed from adjoining public or private property; and refuse which originates on any premises within the Town shall not be suffered by the owner, occupant or person in charge of the premises to accumulate in such manner or in such quantity as to constitute a fire or safety hazard or a danger to health, or so as to become unsightly or otherwise give offense to persons in the neighborhood. Garbage and trash shall be collected and disposed of regularly, as provided in this article. Refuse other than garbage and trash shall be disposed of by the owner or occupant promptly as it originates, in a lawful and sanitary manner
- (b) Garbage and trash to be collected as provided by this article shall be stored, pending collection, in refuse containers in accordance with the requirements of this article.

SECTION 7. GRASS, WEEDS AND VEGETATION.

- (a) No owner, occupant or person in charge of any premises, or his agent or employee, shall permit thereon any growth of weeds to the height of more than six inches, nor shall any such person permit the growth of any weeds or grass on any part of any sidewalk abutting upon such premises.
- (b) All premises shall be maintained by the owners, occupants and persons in charge thereof free of vegetation which affords a breeding place for insects, reptiles or rodents, and upon all premises not devoted to agricultural uses the grass thereon shall be kept trimmed to a height of not more than six inches.
- (c) Grass, weeds and vegetation, when cut down, shall be removed from the premises and disposed of in such manner as not to create a nuisance.

- (d) "Weeds," as used in this section, shall be construed to include all rank vegetable growth which exhales unpleasant and noxious odors, and also high and rank vegetable growth that may conceal filthy deposits.

SECTION 8. RECOURSE OF TOWN UPON VIOLATION.

- (a) In each case of violation of Section 6 or 7, the Mayor may, upon giving not less than five days' notice to the owner, occupant or person in charge of the premises involved, cause such refuse, waste, trash, debris or any offensive or unwholesome substance or matter to be removed and cause such grass, weeds and foreign growth to be cut and removed, and all expenses incurred by the Town shall be chargeable to and paid by the owner of such property.
- (b) The payment of the amount so chargeable to such owner shall not relieve him of any fine imposed for his violation or constitute a defense against any violation of the provisions of this article.

SECTION 9. COLLECTIONS.

All collections of garbage and trash shall be made by or under the direction and supervision of the City. Nothing herein contained, however, shall be construed to compel the Town to collect garbage or trash in Town trucks or by Town personnel; and Council may contract with any person for the collection, transportation or disposal of garbage and trash. All vehicles used in collecting and transporting garbage and trash shall be constructed so as to prevent any garbage or trash from leaking, spilling or blowing upon the streets and premises in the City. Vehicles of the contracting person shall be kept clean, sanitary and free from odor.

SECTION 10. FINAL DISPOSAL SITES; CONTRACT COLLECTOR; NONLIABILITY OF CITY.

During the term of any contract for the collection of garbage or trash by a contractor, garbage and trash shall be disposed of by the contract collector at a site designated by the City. The contract collector shall use a lawful and sanitary method for disposing of all refuse. The responsibility for disposal at any site shall be that of the contract collector, and the Town shall not assume any responsibility as to the manner and method used by the contract collector.

SECTION 11. RESTRICTIONS.

During the term of any contract for the collection of garbage or trash by a contract collector, private scavengers, pushcart operators and private garbage collectors other than the designated contract collector or collectors are hereby prohibited from engaging in the business of transporting or disposing of raw or prepared garbage and wastes containing organic waste, putrid matter and waste or excreta subject to putrefaction.

SECTION 12. GARBAGE RECEPTACLES.

Every person from whose premises garbage is collected by a contract collector shall comply with the provisions of this article with respect thereto, and shall provide a suitable garbage can or receptacle to be approved by the contract collector in which such garbage shall be deposited as it, from time to time, is made or produced. Such receptacle or garbage can shall be constructed of metal and have a tight fitting lid.

SECTION 13. RULES AND REGULATIONS.

Council may make rules and regulations not inconsistent with State law, the Codified Ordinances or other ordinance, and not in conflict with any contract by and between the Town and any contract collector which may be in effect, providing for the manner in which refuse shall be stored and set out for collection; the manner in which collections shall be made and a schedule of days and hours for collection; specifications for garbage and trash receptacles and the placement thereof for collection purposes; waste matter which shall not be subject to collection; a schedule of fees to be charged by the Town for collection services, either to cover the costs of collection by the Town or to meet all or any part of the contract price for collection by a contract collector; and any subject incidental to the collection and disposal of refuse.

SECTION 14. PENALTY.

Whoever violates any provision of this ordinance shall be fined not more than five hundred dollars (\$500.00). Each day any such violation continues shall constitute a separate offense.

SECTION 15. EFFECTIVE DATE.


This ordinance shall become effective after the second and final reading and passage by Council.

SECTION 16. VALIDITY AND SEVERABILITY.

If any section, clause, sentence or provision of this ordinance or application thereof to any person or circumstance be held unconstitutional or for any reason invalid or unenforceable by a court of competent jurisdiction thereof, such holding shall not affect the validity of any other part or application of this ordinance which can be given effect without such invalid part or application and to this end, the provisions of this ordinance are hereby declared to be severable.

INTRODUCED and PASSED at a regular meeting by the Council of the Town of Lumberport on FIRST READING, this 5 day of May, 2014.

PASSED and ADOPTED at a regular meeting by the Council of the Town of
Lumberport on SECOND READING and public hearing held this 9 day of June
 , 2014.


TOM EXLINE, MAYOR


SHERRY EXLINE, RECORDER

