

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, & 99 OF PART NINE, CHAPTER THREE, ARTICLE 951 OF THE CODIFIED ORDINANCES OF THE TOWN OF NUTTER FORT.

It is hereby ordained by the Council of the Town of Nutter Fort, Harrison County, West Virginia to adopt the following changes to Article 951 regarding Refuse Collection.

**ARTICLE 951
Refuse Collection**

- 951.01 Definitions.**
- 951.02 Department of Waste Collection.**
- 951.03 Precollection Practices.**
- 951.04 Prohibited Disposal of Refuse.**
- 951.05 Depositing of Refuse so as to Prevent Dissemination by Wind and the Like.**
- 951.06 Duty of Owners or Occupants to Maintain Premises.**
- 951.07 Notice to Abate Violation; Abatement by Town.**
- 951.08 Compliance.**
- 951.09 Containers.**
- 951.10 Collection Service; Town Has Monopoly.**
- 951.11 Collection Practices.**
- 951.12 Rates.**
- 951.13 Recycling Program.**
- 951.99 Penalties.**

CROSS REFERENCES

General powers of Municipalities - see W.Va. Code 8-12-5
Placing injurious material streets - see TRAF. 311.01
Dropping, leaking loads - see TRAF. 347.04

951.01 DEFINITIONS.

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

- (a) **Ashes** - Residue from the burning of wood, coal, coke, or other combustible materials.
- (b) **Garbage** – Every refuse accumulation of animal, fruit, or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables, and containers originally used for foodstuffs.
- (c) **Refuse** – Garbage, rubbish, or both.
- (d) **Rubbish** – All other solid waste material and refuse of every character accumulated, including trash, debris, yard waste, ashes, or similar substances.

951.02 DEPARTMENT OF WASTE COLLECTION.

- (a) **Created; Duties Generally.** There is created within the Town, a Department of Waste which shall be charged with the responsibility of collecting, removing, and disposing of refuse produced in the residences and commercial establishments of the Town.
- (b) **Supervision.** The Department of Waste shall be under the supervision and direction of the Director of Public Works.
- (c) **Rules and Regulations.** The Director of Public Works shall have authority to make regulations concerning the days of collection, type and location of refuse containers, placement of refuse containers and such other matters pertaining to the collection, conveyance, and disposal of garbage, refuse and waste as shall be necessary, and to change and modify the same after reasonable notice; provided such regulations are not contrary to the laws of the State and the Town.
- (d) **Appeals.** Any person aggrieved by a regulation of, or fee charged by the Department of Waste shall have the right to appeal to the Mayor, who shall have the authority to confirm, modify or revoke any such regulation or fee.

951.03 PRECOLLECTION PRACTICES.

- (a) **Separation of refuse and ashes.** Refuse and ashes shall each be placed and maintained in separate containers.
- (b) **Preparation of refuse and rubbish.**
 - 1. **Garbage.** All garbage shall have all free liquids drained from it and shall be in an approved trash bag before being placed in a garbage can for collection.
 - 2. **Rubbish.** All rubbish shall be drained of free liquids before being deposited for collection.
 - a. **Cans and Bottles.** All cans and bottles shall be emptied before being deposited for collection.
 - b. **Trimnings and Clippings.** Tree trimmings, hedge clippings and similar material shall be cut to lengths not to exceed three (3) feet and securely tied in bundles not more than two (2) feet thick before being deposited for collection.
- (c) **Unauthorized accumulations.** Any accumulation of refuse contrary to any provision of this chapter on any premises is hereby declared to be a nuisance and is prohibited.
- (d) **Time limit on accumulations.** No person shall suffer or permit any garbage to accumulate and remain on the premises in containers, or otherwise, longer than a period of one (1) week in any event.
- (e) **Time restrictions for setting-out garbage, trash, recycling, and other materials for collections.**
 - 1. All residential garbage, trash, recycling, and yard waste collections will be normally made between the hours of 7:00 AM and 4:00 PM on the designated collection day. Refuse containers, bulky waste, recycling containers, and/or yard waste containers shall be set out at the refuse collection site, curbside or alley, as appropriate, on the designated collection day before 7:00 AM and no earlier than 4:00 PM of the day preceding the regular collection day.
 - 2. Refuse containers, garbage cans, recycling containers, and/or yard waste containers shall be removed from the refuse collection site no later than 8:00 PM on the day of the regular collection. The occupant of the property shall promptly clean up and remove any scattered solid waste, rejected items, recyclable material and/or yard waste from the property before 9:00 PM on the day of the scheduled date of regular collection.

951.04 PROHIBITED DISPOSAL OF REFUSE.

- (a) No person shall throw or deposit any refuse in any street or upon any sidewalk or other public space, or upon any private property whether owned by him or her or not, within the town except it be in proper containers for collection as provided in this chapter, or under express approval granted by the Director of Public Works; nor shall any person throw or deposit any refuse in any stream, reservoir, well, cistern or other body of water.
- (b) No person shall sweep any refuse from any premises onto any sidewalk, street or public way within the town or shall wash any refuse across any sidewalk into any street, highway or other public place.

951.05 DEPOSITING OF REFUSE SO AS TO PREVENT DISSEMINATION BY WIND AND THE LIKE.

No person shall cast, place, sweep or deposit anywhere within the town any refuse in such a manner that it may be carried or deposited by the elements of nature upon any street, sidewalk, sewer, parkway, or other public place or into any occupied premises within the town.

951.06 DUTY OF OWNERS OR OCCUPANTS TO MAINTAIN PREMISES

- (a) It shall be the duty of every owner, occupant and person in charge of any premises within the town to maintain such premises free of any accumulation of garbage, rubbish or other refuse which constitutes a fire or health hazard, or which is dangerous to person, or which otherwise constitutes a nuisance.
- (b) It shall be the duty of every owner, occupant and person in charge of any premises within the town to maintain such premises free of noxious weeds, undergrowth and other vegetation which affords a harboring or breeding place for vermin, insects, rodents or reptiles; and grass which is eight (8) inches or more in height, not grown for agricultural or horticultural purposes, shall be deemed *UNDERGROWTH* within the meaning of this division (B).
- (c) No person shall suffer or permit any refuse to accumulate and remain on any premises owned or occupied by him or her or in her/his charge or custody, whether or not such refuse is in containers, for a period of more than one week in any case.

951.07 NOTICE TO ABATE VIOLATION; ABATEMENT BY TOWN.

- (a) Upon investigation and finding by any town officer that any premises within the town is being maintained contrary to any provision of §951.06, the Mayor, Director of Public Works, and Code Official, is hereby vested with authority to give written notice, which may be served in any manner authorized by law, to the owner, occupant or person in charge of such premises, or to any two (2) or all three (3) of them, believed to be responsible for such violation.
- (b) This notice shall specify the condition which constitutes the violation and shall direct the addressee to abate such violation within a period of time which shall be stated therein, and which shall be not less than three (3) days nor more than ten (10) days after service of such notice has been accomplished. Such notice shall also warn the addressee that failure to comply with the directive contained therein shall subject him or her to prosecution for a violation of §951.08 and, in addition shall render him or her liable to the town for any costs and expenses which may be incurred by the town in the abatement of such violation under the provisions of (c) below.
- (c) If, Upon the expiration of the time specified in any such notice for the abatement of an existing condition such condition has not been abated, the Mayor, Director of Public Works, or Code Official shall provide for the abatement of such condition by the most expedient means, and the costs and expenses thereby incurred shall be collection by the Town Treasurer from the delinquent addressee of such notice in any manner provided by law for the recovery of taxes, charges or other debts due the town.

951.08 COMPLIANCE.

No person shall violate or fail to comply with any provision of this subchapter.

951.09 CONTAINERS.

- (a) Condition. Refuse containers shall be provided by Town of Nutter Fort in a good condition and be free from ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof.
- (b) Duty to Maintain. Refuse containers shall be maintained by the owner, tenant, lessee or occupant of the premises in a neat, clean and sanitary condition at all times.
- (c) Type and capacity.
 - (1) Refuse. Refuse containers shall be made of plastic, commercial dumpsters will be of metal or other material approved by the Department of Waste Collection and be equipped with suitable handles and tight fitting covers and be water-tight and have a capacity of ninety-six gallons.
- (d) Points of Collection. Refuse containers shall be placed for collection at the curb line of the street or alley from which collection is made.

951.10 COLLECTION SERVICE; TOWN HAS MONOPOLY

All garbage, rubbish and refuse accumulated in the town shall be collected, conveyed, and disposed of by the town and subject to all the provisions of this subchapter and all reasonable rules and regulations at any time adopted by the Director or by Council. No person other than that of the town shall, for compensation, collect or convey over any of the streets of the town any garbage, rubbish or refuse accumulated in the town.

951.11 COLLECTION PRACTICES.

- (a) Frequency.
 - (1) Residential. Refuse accumulated by residences shall be collected at least once each week, unless more/less frequent collection is approved by the Director because of weather conditions, emergency conditions or other good cause.
 - (2) Commercial. Commercial establishments may enter into an agreement for a greater frequency of collection. Where deemed necessary to protect the public health, the Director shall have the authority to require more frequent collections be made.
 - (3) Residential Bulky Item. Pickup of one (1) bulky item per residence will be picked up on the last Thursday of each month. Changes to pick up date will be posted on the Town's website and Facebook page. Items must be placed at the curb. Items if applicable, must be drained of freon and tagged appropriately.
 - (4) Yard Waste. Collection of trimmings and clippings will occur on recycling days as set by the Director and/or town officials.
- (b) Limitations on Quantity of Refuse.
 - (1) Residential. The Department of Waste shall collect refuse of each family or residential unit during a collection period, provided the same is properly prepared, for the standard charge set forth in this article. The Waste Department shall collect a reasonable accumulation of refuse, which shall be no more one (1) container and must be an approved, provided container, as specified in 951.09(c).
 - (2) Commercial. The Department of Waste shall collect a reasonable accumulation of refuse of commercial establishments and institutions during the collection period at a fair charge based upon the number of totes/dumpsters per collection during the collection period, at the rates set forth in this article. The Department of Waste shall have authority, when necessary to protect public health, to require the collection of larger amounts and increase the charges, according to the rates set forth in this article. No pickups will be made for items not enclosed within the approved containers.

(c) **Special Problems**

- (1) **Contagious disease refuse.** The disposal of wearing, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed, shall be performed under the supervision and direction of the Chief of Police or his or her designee.
- (2) **Inflammable or explosive refuse.** Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the Department of Waste at the expense of the owner or possessor thereof.
- (3) **Commercial waste collectors and the like.** Commercial waste collectors, collectors of materials for rendering purposes or collectors of garbage for animal consumption may enter into a written agreement with the town for the collection of paper salvage, materials to be used for rendering or garbage to be used as feed for animals, at such times, under such circumstances and at such charges as may be agreed upon.

951.12 RATES.

- (a) **Residential.** For refuse placed at ground level and not more than fifteen (15) feet from the side of the street or alley from a single-family unit shall be as follows per month.
- Phase I – Rates effective May 1, 2022 through April 30, 2023 - \$18.37 per month.
 - Phase II – Rates effective May 1, 2023 through April 30, 2024 - \$20.02 per month.
 - Phase III – Rates effective May 1, 2024 through April 30, 2025 - \$21.71 per month.
 - Phase IV – Rates effective May 1, 2025 - \$23.38 per month
1. **Additional container.** If it is found that (1) container is of an insufficient weekly service, an additional container may be obtained for an additional \$12.00/month service.
 2. **Lost or stolen trash container.** Lost or stolen trash containers will cost the resident/tenant the full \$70.00 for replacement plus \$25.00 delivery charge if applicable.
 3. **Disabled service.** If there has been a special written and verified application to the Mayor, or his/her designee, stating that all persons residing at the residence of the applicant are, by reason of age, infirmity, or other just causes, incapable of complying with the provisions of §951.06(a), dealing with the placement of refuse, then the Mayor, or his/her designee, may waive the provisions dealing with their placement and allow the refuse to be removed from a location which is convenient for the applicant and reasonably convenient for the refuse collector.
- (b) **Commercial, Industrial, or Institutional.** For refuse placed at ground level and not over fifteen (15) feet from the curb line of the street or alley from which collected:

Town of Nutter Fort
Ordinance 2022-09

Service rate per month:

<u>Per Collection</u>	<u>Weekly</u>	<u>Twice</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>
(1) toter	28.82	57.64	86.46	115.28	144.10
(2) toters	48.84	97.68	146.52	195.36	244.20
(3) toters	65.75	131.50	197.25	263.00	328.75
(4) toters	78.90	157.80	236.70	315.60	394.50
(5) toters	94.68	189.36	284.04	378.72	473.40
 8 Yard Container (Cost \$3,097.00 Rental per month \$129.04)	 179.33	 358.66	 538.00	 717.33	 896.67
 6 Yard Container (Cost \$2,321.00, Rental per month \$96.70)	 136.31	 272.63	 408.94	 545.26	 681.57
 4 Yard Container (Cost \$1,780.00 Rental per month \$74.16)	 89.68	 179.37	 269.06	 358.75	 448.44
 2 Yard Container (Cost \$1,265.00 Rental per month \$52.70)	 46.62	 93.25	 139.87	 186.50	 233.12

Commercial, Industrial or Institutional subscribers which accumulate large amounts of refuse, rubbish or garbage shall, at the discretion of the Mayor, or other duly appointed person, be required to either rent from the Department of Waste Collection or purchase an approved container (dumpster) of sufficient capacity to insure efficient and sanitary pick-up of refuse, rubbish, or garbage.

- (c) Collection From Other Than Normal Collection Points. Where the collection of refuse from other than the curb line of the street or alley from which collection is made is agreed upon by the Department of Waste, the fee shall be that established for normal collections, plus each additional fee as may be set by the Department of Waste to cover the cost of the extra service.
- (d) Payment: Disposition of Funds.
 1. All rates and charges provided in this article shall be paid monthly or in advance, except those fees and charges for commercial, industrial, or institutional services where the Department of Waste makes some arrangements for payment.
 2. All moneys paid to the Town for the services provided in this article shall be received, accounted for in the general fund of the Town and paid out as required by the Mayor and Council.
- (e) Delinquent Accounts: Collection of Unpaid Charges. All accounts not paid within fifteen (15) days of the date of billing shall be considered delinquent. All delinquent accounts are subject to stoppage of service without notice. The Treasurer, or his/her appointee, shall cease all refuse collections for the delinquent accounts. The town may proceed for the collection of a Municipal claim.

(f) Rates for Special Services.

1. The Department of Waste shall have the general authority to charge customers for delivery, rental, and pickup of “temporary” dumpsters. The following rates will be charged:

	2-yard	4-yard	6-yard	8-yard
Delivery Fee	\$25.00	\$25.00	\$25.00	\$25.00
Daily Rental	\$3.00/day	\$4.00/day	\$5.00/day	\$6.00/day
Dumping Fee	\$50.00/dump	\$100.00/dump	\$150.00/dump	\$200.00/dump

2. The Department of Waste shall have the general authority to fix rates or fees for special services not otherwise provided for; provided such fees shall be commensurate with the services performed.

- (g) Rates for Additional Pickups. The Department of Waste shall have the general authority to charge Commercial, Industrial or Institutional customers for additional pickups, if needed. This additional pickup will be an occasional occurrence and will not take the place of needing a dumpster or needing a larger dumpster, if necessary. The following rates will be charged for each additional pickup during the month:

2-yard container	\$50.00
4-yard container	\$100.00
6-yard container	\$150.00
8-yard container	\$200.00

As stated in 951.11 (b), the container must be of sufficient capacity. If the Department of Waste feels the present pick-ups are insufficient, the business location will be contacted to make arrangements.

- (h) Mandatory disposal; proof required; penalty imposed. Each person occupying a residence or operating a business establishment in this state shall either (I) subscribe to and use a solid waste collection service and pay the fees established therefore or (II) provide proper proof that said person properly disposes of solid waste at approved solid waste facilities or in any other lawful manner. The Director of the Department of Natural Resources shall promulgate rules pursuant to chapter twenty-nine-a of this code regarding an approved method or methods of supplying such proper proof. A civil penalty of one hundred fifty dollars (\$150.00) shall be assessed to the person receiving solid waste collection services in addition to the unpaid fees for every year that a fee is not paid.

(Passed 8-25-09; orig. passed 5-13-97)

951.13 RECYCLING PROGRAM.

- (a) Established. There shall be established a recycling program for the Town of Nutter Fort, effective August 1, 1993. This recycling program will provide for the manner in which collections shall be made, specifications for those items to be recycled, and a schedule of days and hours for collection.
- (b) Rules and Regulations. Council may make rules and regulations providing for recycling that will not be in conflict with any State or County law.
- (c) Fees. There will be a fee of two dollars (\$2.00) per month per customer, as defined by the utility monthly billing. This fee will be collected and deposited and books will be maintained by the Town.
- (d) Recyclables.
 - (1) Items to be recycled shall include, but not be limited to aluminum and bi-metal cans, steel beverage and food cans, plastics Nos. 1 and 2, corrugated paper, cardboard, newspapers including inserts, and magazines.
 - (2) The following recyclable items may be placed in the recycling bin or clear plastic garbage bags: aluminum cans and bi-metal cans, steel beverage and food cans, plastics Nos. 1 and 2, newspapers including inserts, and magazines.
 - (3) All customers of the Town must participate in the recycling program under the same terms as laid down by the collection of regular consumer garbage, except for the following rule: All recyclables must be placed at the front curb for pick-up. This will allow for a more cost-efficient collection. Failure to participate in the recyclable program will be a violation of the law mandating recycling and will result in loss of garbage collection by those who fail to participate. (Passed 8-24-93)
 - (4) Recycling will be collected as specified by this department and may be changed if necessary.

(Passed 12/27/11, 8-25-09; orig. passed 8-24-93)

951.99 PENALTIES.

- (a) Any Customers violating the provisions of this Ordinance or any regulation promulgated hereunder shall be fined Twenty-five Dollars (\$25.00) plus court costs for an initial violation and up to Five Hundred Dollars (\$500.00) plus court costs for each additional violation.
- (b) Any owner of a multi-family dwelling, four units or larger, violating this Ordinance or any regulations promulgated hereunder shall be fined up to One Hundred Dollars (\$100.00) plus court costs for an initial violation and up to Five Hundred Dollars (\$500.00) plus court costs for each additional violation.
- (c) A Notice of Violation can be issued by the Town of Nutter Fort, Solid Waste Authority Director, Law Enforcement and the WV Department of Environmental Protection, and if not corrected within thirty (30) days the above-mentioned fines plus court costs will be collected.
- (d) Any commercial establishment violating this Ordinance or any regulations promulgated hereunder shall be fined up to One Thousand Dollars (\$1,000.00) plus court costs for an initial violation continues shall constitute a separate violation.
- (e) Whenever, in the codified ordinances or in any ordinance of the municipality, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be fined not more than \$500.00 or imprisoned not more than 30 days, or both. Each day any such violation continues shall constitute a separate offense.

Passed by the Council of the Town of Nutter Fort this the 9th day of August 2022.

Passed by the Council of the Town of Nutter Fort on the second and final reading this the 23rd day of August 2022.

Mayor – Sam Maxson

Attest:

(Passed 8-23-22)

Recorder – Rezin Hudkins