

**COPY**

ORDINANCE NO. 2003-009  
ORDINANCE TO AMEND ORDINANCE 99-008

**AN ORDINANCE REGULATING THE PUBLIC HAULING AND DISPOSAL OF  
GARBAGE AND RUBBISH ON ANY LAND WHICH IS SITUATED OUTSIDE THE  
CORPORATE LIMITS OF ANY CITY OR TOWN IN DELAWARE COUNTY, STATE  
OF INDIANA, REQUIRING PERMITS AND PROVIDING PENALTIES FOR  
VIOLATION THEREOF:**

BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF  
DELAWARE COUNTY, STATE OF INDIANA, AS FOLLOWS:

ARTICLE I

DEFINITIONS

- Section 1.1 Definition of Terms. The following words used in this ordinance shall for the purpose of this ordinance have the meanings respectively ascribed to them in this article, unless a different meaning is clearly indicated.
- A. "Garbage" shall mean those putrescible wastes resulting from the growing, handling, storage, preparation, cooking, and consumption of food.
  - B. "Ground Water" means water in the ground that is in the zone of saturation.
  - C. "Hazardous Material" includes, but is not limited to, explosives, pathological wastes, radioactive materials and chemicals.
  - D. "Health Officer" shall mean the Delaware County Health Officer, or his duly authorized representative.
  - E. "IDEM" shall mean the Indiana Department of Environmental Management.
  - F. "Person" shall mean an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any entity recognized by law.
  - G. "Public Disposal" shall mean relate to disposal of refuse which has been removed from premises used, owned or leased by one or more persons, firms, corporations, or associations, and transported to other premises and disposed either with or without the payment of a fee.
  - H. "Refuse" shall mean all putrescible and nonputrescible solid wastes, and shall include garbage, rubbish, ashes, street sweepings, dead animals, and industrial and construction wastes.

- I. "Rubbish" shall mean all nonputrescible wastes including such matter as ashes, cans, metalware, broken glass, crockery, dirt, sweepings, boxes, wood, grass, weeds, or litter of any kind.
- J. "Salvaging" means the controlled removal or reusable materials.
- K. "Board" means the Delaware County Board of Health or the Delaware County Department of Health.
- L. "Scavenging" means the uncontrolled picking of materials.
- M. "Surface Water" means the body of water whose top surface is exposed to the atmosphere including a flowing body as well as a pond and a lake.
- N. "Delaware County" shall mean those areas in Delaware County, State of Indiana, which are under jurisdiction of the Board.

## ARTICLE 2

### PERMITS

#### Section 2.1 Operators Permit.

- A. No person shall engage in the public disposal of waste without possessing an unrevoked permit from the Board, to engage in the removal and/or the transportation of refuse from the premises to a location other than the place of origin of such refuse for disposal.
  - (1) No permit shall be required for any individual to dispose of his or her own waste if that waste is transported to an IDEM approved solid waste disposal site in a safe and sanitary manner. All such wastes transported in an open vehicle or trailer shall be adequately covered to prevent loss or spillage of waste. Large items such as household appliances need not be covered, but must be secured with rope, straps or wired to prevent their loss while in transit. Any law enforcement agency having jurisdiction in Delaware County, Indiana shall enforce this subsection.
- B. Before a permit is issued by the Board for the collection and transportation of refuse, all equipment and vehicles to be used shall be approved by the Director. All equipment and vehicles used to transport refuse to an IDEM approved solid waste disposal site shall be suitably constructed and sanitized to prevent all health hazards and nuisances. The Board shall not issue a permit to allow the transport of waste until it ensures that the equipment vehicle to be employed for transport complies with this subsection.

- (1) Any applicant for a permit to transport waste shall file a certificate of insurance with the Board. This certificate shall state that the applicant has a public liability and property damage insurance policy insuring the applicant against liability for damages sustained by a person other than an employee of the applicant and occasioned by the neglectful operation of the equipment or vehicles of the applicant, with coverage for at least Three Hundred Thousand Dollars (\$300,000.00) in the event of death or injury to any person or persons as a result of an accident; as well as property damage. This policy shall have been issued by a company licensed to do business in the State of Indiana.
- (2) All permits to transport waste shall state the name of the person to whom the permit is granted and shall include any other information deemed relevant by the Board or its Director.
- (3) Each vehicle used to transport waste shall have a permit which shall not be valid for any other vehicle.
- (4) Equipment and vehicles used to transport waste shall receive permits valid for a term of one (1) year commencing on January 1 and expiring on December 31 of each year. The Board shall issue a permit only after determining that the applicant has complied with all standards mandated by this subsection. No permit to transport refuse is transferable. No permit or renewal shall be denied or revoked on arbitrary and capricious grounds.

## Section 2.2 Permit Fees

A. The Board shall charge a fee of Twenty-Five Dollars (\$25.00) upon the issuance of a permit to transport waste for one (1) vehicle, and an additional Fifteen Dollars (\$15.00) for any other vehicle. Permits are issued for a calendar year. The Board shall charge a fee of Twelve and 50/100 (\$12.50) upon the issuance of a permit to transport waste if that permit is issued between July 1 and December 31 inclusive. All permits shall be renewable in January of each year. The Board may alter the fees charged under this subsection by notifying the Board of Commissioners of Delaware County prior to January 1 of each year of its intention to do so. Any revision in fees shall take effect upon approval by the Board of Commissioners of Delaware County, Indiana.

- (1) Permits shall not be transferrable and shall be carried on the vehicle at all times.
- (2) Operators who comply with the provisions of this ordinance and are required to pay a similar fee from another governmental agency shall be exempt from this section.

B. No state, county or municipal government or any person charged a fee by another governmental agency to transport waste shall be charged a fee under this subsection.

C. All fees collected under this subsection shall be deposited in the Delaware Health Department, and may be used for health related discretionary purposes.

Section 2.3 Suspension and Revocation of Permits

A. Any permit may be temporarily suspended by the Health Officer without notice or hearing upon violation by the holder of any of the terms of this ordinance.

B. Any permit issued under the terms of this ordinance may be revoked after an opportunity for a hearing by the Health Officer upon serious or repeated violations.

ARTICLE 3

EXCEPTIONS AND LIMITATIONS

Section 3.1

It shall be unlawful for any person to engage in public disposal of refuse on any land, premises or property which has not been approved by the Health Officer as a public disposal site.

Section 3.2

Any person who employs or permits another person, with or without compensation, to remove or transport refuse from premises to a location other than the place of origin of such refuse, shall be liable in case his refuse is discarded along public roads or any area not approved by the IDEM as a refuse disposal site, unless the original owner of the refuse is able to provide the name and address of the person who collected, transported and disposed of the refuse.

Section 3.3

It shall be unlawful for any person to dispose of or store refuse on premises at the place of origin in such quantities as to have public health significance.

Section 3.4

All items in Article 3 are subject to compliance with all state laws and regulations administered by IDEM.

## ARTICLE 4

### ENFORCEMENT

#### Section 4.1

The enforcement of this ordinance shall be by any law enforcement agency having jurisdiction in Delaware County, Indiana.

#### Section 4.2

It shall be the duty of the Delaware County Prosecuting Attorney and/or the attorney for the Delaware County Commissioner and/or attorney for the Delaware County Health Board to whom the proper enforcement authorities shall report any violations of the provisions of this ordinance, to cause proceedings to be commenced against the person violating the provisions of this ordinance and to prosecute to final termination.

## ARTICLE 5

### PENALTIES

#### Section 5.1

Any person, partnership, corporation or other legal entity violating the terms of this Ordinance shall, upon conviction by the court, be subject to a fine of not less than \$500 and not more than \$2,500 for the first violation and \$2,500 for each subsequent violation. Each day the violation occurs or continues to exist shall constitute a separate offense. All fines and costs collected by the city pursuant to this subchapter shall be placed in the Health Fund. Any person who, under subpoena, provides evidence leading to the successful conviction of any person under this subchapter may be entitled to an equal portion of 50% of the fines collected from such person, firm, corporation or other legal entity. No city, county, state or federal employee or their immediate family members shall be eligible to receive a reward pursuant to this Ordinance.

## ARTICLE 6

### REPEAL AND DATE

#### Section 6.1

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect immediately upon its adoption and its publication as provided by law.

ARTICLE 7

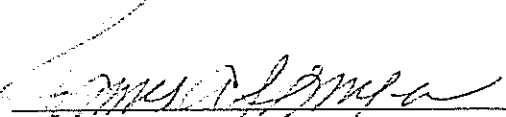
UNCONSTITUTIONALLY CLAUSE

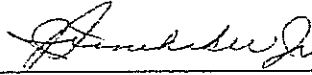
Section 7.1


Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional, or invalid for any reason, the remainder of said ordinance shall not be affected thereby.

Passed and adopted by the Board of County Commissioners of Delaware County, Indiana, this 2<sup>nd</sup> day of June, 2003.

BOARD OF COMMISSIONERS OF  
DELAWARE COUNTY, INDIANA

  
James A. St. Myer, President

  
Jack L. Stonebraker, Jr., Vice-President

  
Larry Crouch, Commissioner

ATTEST:

  
Jane Lasater, Auditor