

ORDINANCE 12-4 2019

AN ORDINANCE ESTABLISHING REGULATIONS ON THE
COLLECTION AND DISPOSAL OF REFUSE

WHEREAS, the Town of Middletown, Indiana may enact regulations to promote the public health, safety and welfare; and,

WHEREAS, Indiana Code §36-9-30-5 permits a unit of local government to enter into a contract for exclusive right to collect and dispose of solid waste; and,

WHEREAS, Middletown will enter into an exclusive contract with a vendor ("Contractor") for the collection and disposal of solid waste generated from Dwelling Units within the Town; and,

WHEREAS, Middletown believes that it will promote the public health, safety and welfare to enact an ordinance regulating the disposal of Refuse within the Town and to facilitate the collection of refuse by the Contractor.

NOW THEREFORE, BE IT ORDAINED as follows:

1. Definitions:

The terms set forth below when utilized in this Ordinance are defined as follows:

(a) Refuse: All waste except human bodily waste and Prohibited Waste, including, but not limited to, items discarded from the preparation and consumption of food, paper, cardboard, bottles, aluminum, glass, bedding, rags, wood, Yard Waste, and other debris.

(b) Yard Waste: Compost board, organic waste resulting from the maintenance of lawns, gardens, trees, and landscaping, including but limited to grass, tree branches, plants and twigs.

(c) Dwelling: All residential structures primarily used for abode for one or more persons, including multi-family structures not containing more than two (2) Dwelling Units.

(d) Dwelling Unit: A portion of a residential structure, used by one (1) family for cooking, living and sleeping purposes.

(e) Large Refuse: Articles of refuse that are too large to be placed in a ninety-six (96) gallon trash container, including without limitation, appliances, bicycles and furniture.

(f) Prohibited Waste: Motor oil, gasoline, paint, flammable liquids, batteries, construction debris, and other materials designated as "Hazardous Waste" described and delineated in 40 CFR§261, *et. seq.* and any other material or items that Contractor will not collect as part of its routine collection of Refuse.

(g) person: Any natural person, partnership, corporation, limited liability company, association or organization.

(h) Environmental Committee: The group of persons designated by the Town's Board, from time to time, to serve as members of the Middletown Environmental Committee.

2. Disposal of Refuse from a Dwelling Unit:

(A) Refuse from a Dwelling shall be disposed of as follows:

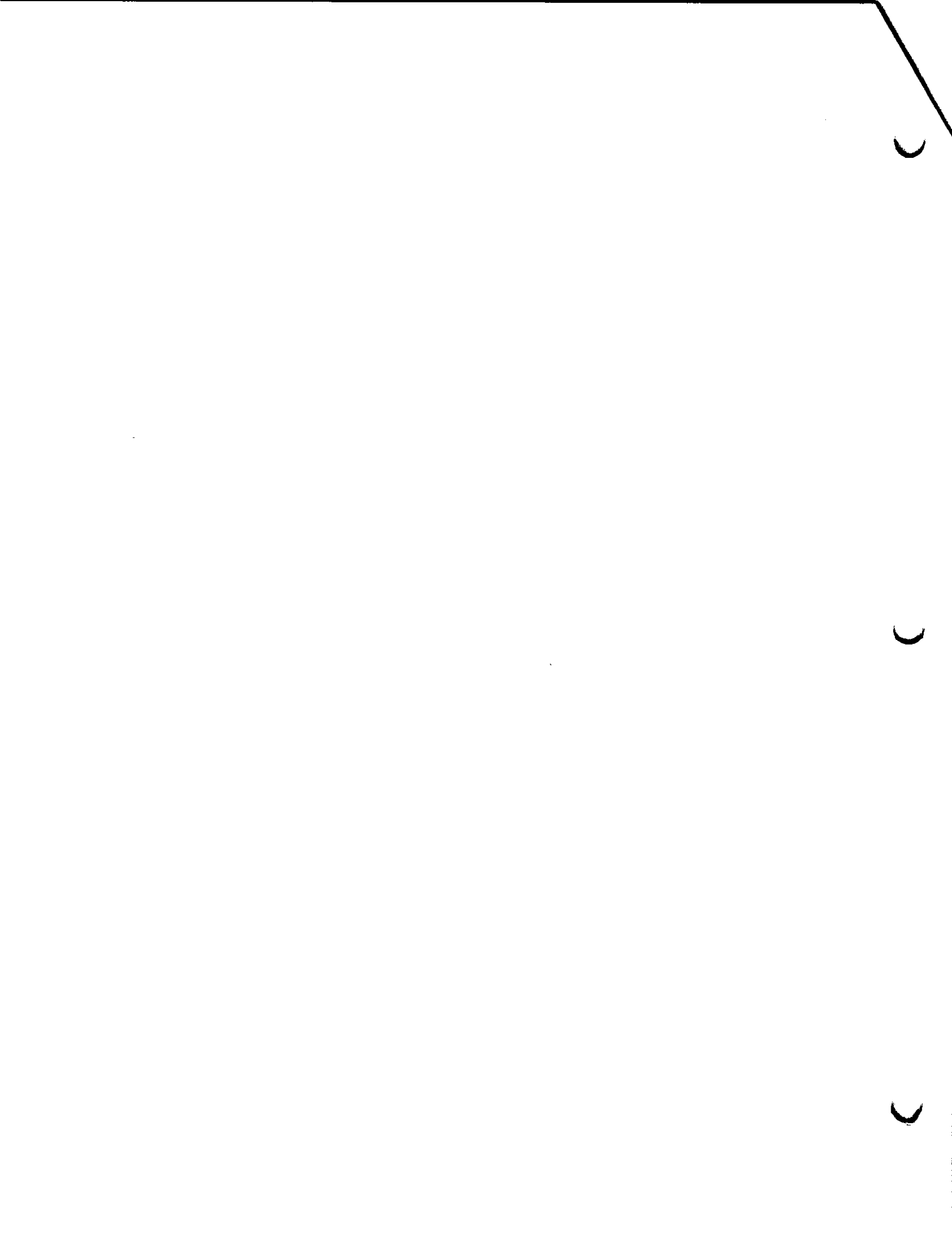
(i) All Refuse shall be bagged and placed in a ninety-six (96) gallon container supplied by Contractor adjacent to the street abutting the Dwelling Unit on the date designated by Contractor for pick up and disposal of Refuse. All containers shall be placed adjacent to the street no earlier than 12:00 p.m. on the day immediately prior to collection and shall be moved to a location that is not visible from any place on the right of way no later 10:00 p.m. on the date after collection.

(ii) Refuse must be placed in a container in such a manner that the lid on the container will completely close.

(iii) Refuse and Large Refuse shall not be placed on the ground adjacent to the container or in any other location visible from the right of way or abutting properties.

(iv) Large Waste may be disposed of in dumpsters supplied by Contractor at locations designated by Town on a bi-annual basis. In addition, persons owning or residing in Dwelling Units may make arrangements with Contractor to pick up large waste on a date and time agreed upon between the owner or resident and Contractor. The owner or resident shall be responsible for all charges incurred as a result of the collection of an item of Large Refuse by Contractor. A resident or owner of a Dwelling Unit shall place an item of Large Refuse near the right-of-way or in any other location visible from the right-of-way no more than twenty-four (24) hours prior to the date that Contractor will pick up the item of Large Refuse.

(B) No person shall place Prohibited Waste in any container for pick up by Contractor.



(C) Contractor shall have the exclusive right to collect Refuse from all Dwellings within Town. No person, other than Contractor, shall collect Refuse from, or contract for the collection of Refuse from a Dwelling within Town, after the date Contractor commences performance under its Contract with Town. Town shall provide notice to owners and occupants of Dwellings of the date upon which Contractor's performance shall commence.

3. Exemptions

The following property shall not be considered a "Dwelling" for purposes of this Ordinance:

(A) The primary residence of a person that owns or operates a business within Town that has a commercial dumpster on the business's premises for the disposal of Refuse and has contracted for the sanitary commercial collection and disposal of Refuse from the business's premises.; and

(B) The parsonage of any church, temple, mosque or other place of worship or congregation, if the church, temple, mosque or other place of worship or congregation is located within Town, has a commercial dumpster on its premises and has contracted for the sanitary commercial collection and disposal of Refuse from the church, temple, mosque or other place of worship or congregation.

To be exempt from the definition of Dwelling pursuant to this Section, the person desiring the exemption must submit a written request to Town Environmental Committee, c/o Clerk Treasurer, 653 Locust Street, Middletown, IN 47356. The written request must, at a minimum, set forth the address that the person believes should be exempt, the name and address of the business, church, temple, mosque or other place of worship or congregation where a commercial dumpster is located, and proof of commercial collection of Refuse.

The Environmental Committee may develop, from time to time, rules for the administration of this Section and promulgate additional criteria necessary to qualify for the exemption. All rules and additional criteria shall be approved by the Town Council prior to becoming effective.

The Environmental Committee shall review all requests for exemption pursuant to this Section and issue a written determination no later than ten (10) days after the request for exemption is received. A person may appeal a determination by the Environmental Committee by submitting a written document to the Town Council, no later than ten (10) days after the date of the Environmental Committee's decision, explaining why the decision of the Environmental Committee is incorrect. The decision of the Environmental Committee shall be final and binding if a timely appeal is not filed with the Town Council. The Town Council may elect to receive additional information

regarding the appeal during a regular or special meeting. The Town Council will issue a decision on any appeal no later than thirty days after the appeal is filed. A property owner shall be responsible for all user fees and other charges for the collection of Refuse until the month after the request for an exemption pursuant to this Section is approved.

4. Disposal of Refuse From Locations Other Than a Dwelling.

The owner of any property utilized for business purposes, including without limitation, the owner of any property utilized for residential purposes, which does not fall within the definition of a "Dwelling," shall supply a dumpster(s) or other containers for the disposal of Refuse generated by the occupant(s) of the property and shall contract for, or otherwise arrange for the sanitary commercial collection and disposal of Refuse from the property. The owner shall not permit Refuse, waste or other debris to accumulate in any common areas, fire escapes, stairways, shared entrances to the property, or any other location that is visible from the right of way or abutting properties.

5. Penalties.

- a. Any person violating the provisions of section 2 (A) above shall be fined in the sum of twenty five dollars (\$ 25.00) for the first violation, fifty dollars (\$50.00) for the second violation and a sum of up to one hundred dollars (\$ 100.00) for each subsequent violation.
- b. Any person that violates the provisions of section 2 (B) above shall be fined in any amount of up to two hundred fifty dollars (\$ 250.00).
- c. Any person that violates Section 2 (C) above shall be fined in an amount up to five hundred dollars (\$ 500.00).
- d. An owner of real property in violation of section 4 above shall be fined in a sum of up to five hundred dollars (\$500.00).
- e. Each day a violation occurs shall constitute a separate offense. In addition to the penalties described above, Middletown may pursue any other remedy at law or in equity for a violation of this Ordinance.

6. User Fee. Each owner or occupant of a Dwelling Unit shall be assessed a monthly user fee for the collection and disposal of Refuse as provided by Contractor. The user fee shall appear as a separate charge on the owner's or occupant's monthly utility bill.

REPEALER: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY: Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation of law shall be deemed unenforceable, shall be omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

EFFECTIVE DATE: This Ordinance shall become effective immediately upon passage and publication required by law.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MIDDLETOWN,
INDIANA THIS 17 DAY OF DEC, 2019.

Donita Chamless

John Amis

Richard Schueler

[Signature]

Donna [Signature]

ATTEST:

[Signature]
Clerk-Treasurer