

COMMISSIONERS' ORDINANCE NO. 0-35-18

AN ORDINANCE AMENDING CHAPTER 95 OF THE COVINGTON CODE OF ORDINANCES, SANITATION AND HEALTH, TO INCLUDE CHANGES RELATING THE NEW BULK ITEM AND EXCESSIVE TRASH PICKUP PROGRAM, AND CLARIFYING VARIOUS DEFINITIONS AND CITATION PROCEDURES.

* * * *

WHEREAS, pursuant to the Covington Board of Commissioners Orders Nos. ORD-39-17 and ORD-196-17, the Board of Commissioners directed City staff to undertake changes to the City's Solid Waste & Recycling Franchise Agreement with Rumpke based on feedback from City residents; and

WHEREAS, such changes included eliminating the green and red stickers, and providing a more simplified Bulk Item and Excessive Trash Pickup Program process; and

WHEREAS, changes to the City's Sanitation and Health Ordinance are necessary to reflect the new program details and enforcement procedures; and

WHEREAS, additional requested revisions to the Rumpke Franchise Agreement listed in the Commissioners Orders referenced above will be addressed as negotiations with Rumpke continue to proceed.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section 95.03 of the Covington Code of Ordinances, Sanitation and Health, "Definitions," is hereby amended to read as follows:

§ 95.03 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED PRIVATE RECEPTACLE. A 35-, 65-, or 95-gallon ~~cart~~ [toter] provided by the city's solid waste contractor that is on wheels and has an attached, hinged lid.

BULK ITEM. Any waste item of a weight or of such size as to not fit or be suitable for disposal in a cart or container, including without limitation household appliances, furniture and those other items listed in § 95.06(A) below.

CART. A receptacle with a capacity not exceeding 96 gallons that is used to store and dispose of waste or recyclables, and that is issued to residential property owners, or commercial end users either by the city or by the contractor.

CITY. The City of Covington, a Home Rule City of the Commonwealth of Kentucky, or its agents and contractors.

COMMERCIAL END USER. Any person who has contracted for waste management services with the contractor, whether or not such person is the owner of record of the parcel being serviced, its contractors, agents and employees, or any owner of a residential parcel containing four or fewer units who regularly uses more than the maximum amount of carts allowed for the size of the parcel being serviced as provided in Chapter 98 of the Covington Code of Ordinances.

COMMERCIAL PARCEL. Any parcel together with any building, or other structure located thereupon, which is designed or used solely for commercial purposes, whether partially occupied or vacant, including any yard, grounds, walkway, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such parcel.

COMMERCIAL UNIT. Any structures or premises demised on a parcel that are separate and distinct from any other structures or premises demised on the same parcel, and which are designed or used wholly for commercial purposes, whether occupied or vacant, including any yard, grounds, walkway, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such structure or premise.

CONTAINER. Any reusable waste receptacle with a capacity exceeding 96 gallons.

CONTAINER SERVICES. The collection, transportation, and disposal of waste or recyclables by the use of a container and any management or administrative services that are necessary to effectuate such collection, transportation, or disposal.

CONTRACTOR. The entity with which the city has contracted for the collection and disposal of waste and recyclables produced by residents and businesses located within the jurisdictional boundaries of the city, or if no such contract exists, the city, or the entity with which the owner or end user has contracted for the delivery of such services.

CURBSIDE. The area that is not more than three feet from the street curb, alley, or other public right of way upon which owners, occupants, or commercial or industrial end users place waste and recyclables for collection.

CURBSIDE SERVICES. The collection, transportation and disposal of waste and/ or recyclables by the use of one or more carts placed at the curbside by end users, and any management or administrative services that are necessary to effectuate such collection, transportation, or disposal.

DUMP-OUT. Any material emptied from a vehicle or building upon streets, roadsides, or public places that is not set out for collection in accordance with the regulations provided in this chapter or contained in an appropriate receptacle.

DWELLING UNIT. A self-contained unit of accommodation used by one or more occupants as a residence and which is located on a residential, multi-unit residential, or mixed-use parcel.

END USERS. Any person benefitting from the services, including without limitation, owners, occupants, commercial and industrial end users.

HANDBILL. Any printed or written material, excluding newspapers, that advertises for sale any commodity or thing or advertises an event of any kind.

HAZARDOUS WASTE. [~~shall mean those~~] Those materials that are classified as hazardous waste under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 *et seq.*, including without limitation, sewage, processing sludge, animal carcasses, hazardous waste, fluorescent bulbs, electronics or liquids of any sort, and chlorofluorocarbons contained in appliances.

HOME OCCUPATION. Any activity of a nonresidential nature that is performed within a dwelling unit by the occupant of such unit.

INDUSTRIAL END USERS. The owner of a parcel upon which industrial services are being provided, including its contractors, agents, employees, who together are jointly and severally responsible for complying with the provisions of this chapter.

INDUSTRIAL PARCEL. Any parcel together with any building, or other structure located thereupon, which is designed or used wholly for office or industrial purposes, whether partially occupied or vacant, including any yard, grounds, walkway, driveway, porch, steps, vestibule, or mailbox, belonging or appurtenant to such parcel.

INDUSTRIAL WASTE. The waste products of canneries, slaughter-houses, and packing plants: large quantities of condemned food products; wastes from brick, concrete block, roofing shingle, or tile plants; and debris and wastes accumulated from land clearings, excavating, building, rebuilding, and altering of buildings, structures, roads, streets.

~~[**LARGE ITEM.** Any waste item of a weight or of such size as to not fit or be suitable for disposal in a cart or container, including without limitation household appliances and furniture and those other items listed in § 95.06(B) below.]~~

LIQUID WASTE. [~~shall mean all~~] All liquid waste, including but not limited to, motor oil, transmission fluid, brake fluid, steering fluid, or other liquid wastes thrown away or deposited as prohibited by this chapter.

LITTER. All solid or liquid wastes, including but not limited to, containers, packages, wrappings, printed matter, cigarette butts, or other materials thrown or discarded in violation of this chapter.

LITTER BAG. A bag, sack, or other container that is designed or used as a receptacle for litter inside a vehicle or watercraft.

LOADLINE. The line which if drawn would outline the perimeter of the upper most end of a container.

MIXED USE PARCEL. Any parcel together with any building, or other structure located thereupon, which is designed or used or used partially for residential purposes and partially for commercial purposes, whether partially occupied or vacant, including any yard, grounds, walkway, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such structure.

MULTI-UNIT RESIDENTIAL PARCEL. A parcel which together with any, apartments, townhouses, condominiums, buildings, or other structure located thereupon, which is designed or used to accommodate 5 or more dwelling units and which does not house a business other than a home occupation, whether partially occupied or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox, belonging or appurtenant to such parcel.

NEWSPAPER. Any newspaper of general circulation as defined by general law.

NONCOMBUSTIBLE REFUSE. Refuse materials that are unburnable at ordinary incinerator temperatures (800°F. to 1,800°F.), such as metals, mineral matter, large quantities of glass or crockery, metal furniture, automobile bodies or parts, and other similar material or refuse that is not the product of ordinary residential or office use.

OCCUPANT. [~~shall mean any~~] Any person residing whether temporarily or permanently in a dwelling located on a residential or multi-unit residential parcel.

OWNER. The person or entity that is named in the Kenton County property records as being the owner of a parcel that is located within the jurisdictional boundaries of the City of Covington and its contractors, agents, and employees.

PARCEL. Any real property located within the jurisdictional boundaries of the City of Covington, which is designated by a unique legal description, street address, and parcel identification number in the official property records for Kenton County and easement, or covenant appurtenant thereto.

PARK. [~~shall mean a~~] A public park, playground, recreation center, or any other public areas in the city.

PERSON. Any individual, public or private corporation, partnership, limited liability company, association, firm, or other entity whatsoever.

PRIVATE PROPERTY. Any property not publicly owned or held out for the use by the public.

PRIVATE RECEPTACLE. Any cart or container that is used to temporarily store and dispose of solid waste or recyclables was not issued to the owner, commercial or industrial end user by the city or the contractor.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys, right-of-ways, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

PUBLIC RECEPTACLES. Any litter storage and collection receptacle placed on the public right-of-way and maintained by the city.

RECYCLABLES. Any items or materials, which can be collected, processed and reprocessed into new products that could be reintroduced into the stream of commerce as raw materials or products, and which are acceptable at a MRF, including without limitation, paper, glass, aluminum, corrugated cardboard, and plastic containers.

RESIDENTIAL PARCEL. Any parcel together with any house, building or other structure located thereupon, which is designed or used wholly to accommodate not more than 4 dwelling units, and which does not house a business other than a home occupation, whether

partially occupied or vacant, including any yard, grounds, walkway, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such parcel.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

SERVICES. Without limitation the collection, transportation, and disposal of solid waste and/or recyclables generated by owners, occupants, commercial or industrial end users located or doing business within the geographical limits of the City of Covington, including without limitation any management or administrative functions that are necessary to provide such services.

SET-OUT. Any waste, items or materials, or **bulk** [large] items placed upon the curb[side] or any public place, including but not limited to sidewalks and public right-of-ways, by any owner, occupant, commercial or industrial end users in a manner that is not compliant with this chapter, including but not limited to personal items improperly set out as a result of evictions, writs of possession, rights of entry, repossession of real or personal property, or the rehabilitation, demolition, or general cleanup of a building, structure or parcel.

SOLID WASTE COORDINATOR. The person designated by the city to coordinate the services provided to owners, occupants, and commercial and industrial end users.

SPECIAL PICK-UP. The collection of waste or recyclables specially arranged by an owner, occupant, commercial or industrial end user, or the solid waste coordinator for a day that is not the regularly scheduled collection day.

STREET. Any highway, road, or alley, including any collector, local, or arterial streets or freeways, located within the city.

SWEEP-OUTS. Any collection of debris resulting from clean-up operations on private property, which is deposited in or around a public place, including street curbs.

USER FEE. Any fee assessed for services or carts provided in accordance with Chapter 98 of the Covington Code of Ordinances.

UNAUTHORIZED WASTE. Liquid waste and waste including without limitation dirt, excavated earth, sewage, processing sludge, animal carcasses, hazardous waste, electronics or liquids of any sort, rocks, concrete, concrete blocks, cement, asphalt, blacktop, tile, bricks, gravel, sand, stucco, bricks, composition roofing, sawdust, brush heavy building or construction materials, demolition materials, lumber, wooden, pallets, metal drums, large wire binding, heavy packing material, cinder blocks large engine parts, large scrap metal and shavings, large furniture, large appliances, or mattresses and box springs.

WASTE. Any putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish, ashes, street cleanings, appliances, and furniture, or parts thereof, industrial wastes, swill, demolition and construction wastes, and discharged commodities,

WATERCRAFT. Any boat, ship, vessel, barge, or other floating craft.

YARD WASTE. All accumulations of grass, shrubbery, vines, branches, limbs, leaves, cuttings, and other naturally created materials resulting from the care or maintenance of real property, and that is set out for disposal by owners, occupants, commercial or industrial end users.

Section 2

Section 95.04 of the Covington Code of Ordinances, Sanitation and Health, "Carts Generally," is hereby amended to read as follows:

§ 95.04 CARTS GENERALLY.

(A) *Residential curbside services.* For each dwelling unit located on a residential parcel, owners of such parcels shall be entitled to:

- (1) The weekly servicing of the equivalent of one 96 gallon city-issued waste cart; and
- (2) The ***weekly*** [~~every other week~~] servicing of the equivalent one 96 gallon city-issued recycling cart.

(B) *Exemptions and waivers to cart sizes.* Owners or occupants of residential parcels with physical impairments, or who reside on a parcel with space constraints, can request alternative cart sizes and waste disposal options by contacting the solid waste coordinator.

(C) City-issued carts are assigned to each residential parcel and are tracked by means of a bar code system. Contractor shall issue carts to commercial end users, which shall be tracked in the same manner. Owners or occupants of residential parcels, or commercial end users shall not take carts from other parcels, or remove carts from a parcel. City-issued carts and any carts issued by the contractor are and shall at all times remain the property of the city or the contractor as applicable. No person shall intentionally or inadvertently deface, damage, or destroy any carts issued by the city or the contractor.

(D) *Additional residential carts.* Owners of residential parcels may request additional city-issued carts from the contractor and will be charged for each such additional cart in accordance with Chapter 98 of the Covington Code of Ordinances. Any owner of a residential parcel who uses or keeps more than the maximum carts allowed for the size of the building shall be billed as a commercial end user in accordance with Chapter 98 of the Covington Code of Ordinances.

~~[(E) *Returned residential carts.* Owners of residential parcels may return city-issued carts and request that an adjustment of the user fee assessed against the parcel in the manner provided in Chapter 98 of the Covington Code of Ordinances.]~~

[F] ***(E)*** *Replacement residential carts.* City shall replace or repair city-issued carts that are damaged ***or stolen***. Owners or occupants [~~of residential parcels~~] ***must contact the City's waste contractor and complete the necessary steps to report a cart damaged or stolen*** [~~file a police report for any stolen carts and produce the report to the solid waste coordinator or contractor before receiving a replacement cart~~].

[G] ***(F)*** *Private residential carts.* Waste or recyclables placed in private carts shall not be collected, except when used to store [~~a large~~] ***bulk*** items in the manner provided in § 95.06(E) below.

Section 3

Section 95.05 of the Covington Code of Ordinances, Sanitation and Health, “Curbside Disposal Rules,” is hereby amended to read as follows:

§ 95.05 CURBSIDE DISPOSAL RULES.

Unless exempted pursuant to § 95.04(B), owners, commercial end users, and industrial end users shall comply or cause the occupants of any dwelling units located on the parcel to comply with all rules and regulations set forth in this chapter, or be deemed to be in violation of this chapter.

(A) *Collection schedule.* Residential waste and recyclables shall be collected according to the collection schedule established by the City of Covington. The most current collection schedule shall be posted on the city’s website, and a notice of any modifications to the schedule shall be sent to owners of residential parcels in advance of any modifications. Commercial end users shall make arrangements with the contractor to establish a regular collection schedule for any curbside services that it receives in the manner set forth in this chapter.

(B) *Collection times.* Owners or occupants of residential parcels and commercial end users must place carts at the curbside in the manner provided in this section, by no earlier than 6:00 p.m. on the day before the collection day and no later than 7:00 a.m. on the collection day.

(C) *Placement of carts on collection day.* Owners or occupants of residential parcels and commercial end users must neatly place carts at the curbside, ***interpreted as no more than three (3) feet from the curb***, with the wheels of the carts facing the public right of way.

(D) *Removal of carts from the curbside.* Carts remaining curbside after the contractor has collected waste and/or recyclables must be removed from the curbside and appropriately stored, no later than 12:00 p.m. on the day after the collection day.

(E) *Placement of stored carts.* Other than on a collection day, commercial end users, owners of residential parcels, or the occupants thereof must store carts at the rear of a building or structure located on the parcel, or as close to the rear of a building or structure as possible, ensuring that wherever possible carts are not visible from the street or public right of way.

(F) *Trash disposal.* Residential waste shall be placed in a garbage bag and deposited inside carts. Garbage bags shall be properly tied or otherwise secured at the opening.

(G) *Recycling.* [~~Residential recyclables~~] ***Recyclables*** should not be bagged and must be placed inside city-issued recycling carts.

(H) *Loading of carts.* Residential waste and recyclables must weigh less than 75 pounds and fit inside a cart allowing sufficient room for the [~~cover to~~] ***lid of*** the cart to close completely. Carts that cannot be completely closed shall not be serviced and shall be considered a ***non-compliant*** set out under this chapter.

Section 4

Section 95.06 of the Covington Code of Ordinances Sanitation and Health, "Bulk Item Rules," is hereby amended to read as follows:

§ 95.06 ~~[LARGE]~~ **BULK** ITEM RULES.

Any item that does not completely fit within a cart shall be considered a ~~[large]~~ **bulk** item, including without limitation, excessive trash bags, furniture, appliances, mattress and box springs, loose trash, or yard waste.

(A) ~~[Large-item stickers]~~ **Bulk Item.** ~~[Each year, the city will issue 12 stickers to owners of residential parcels for each dwelling unit located thereupon, which entitles occupants to dispose of 12 large items on any collection day during the calendar year at no additional charge to the owner.]~~ **Every residential user shall be permitted to place at the curb one (1) bulk item per week. Bulk items are required to be placed at the curb in coordination with routine servicing dates and times, unless a customer schedules a 'special pick-up' with the City's waste contractor in accordance with § 95.06(D). Bulk items are required to be prepared in an orderly manner as specified in § 95.06(B) thru § 95.06(E). A bulk item is defined as: one (1) mattress and one (1) box spring, wrapped; OR one (1) piece of furniture, which if upholstered must be wrapped; OR three (3) bundles of yard waste or carpet; OR up to three (3) bags of household debris, required to be bagged, tied securely and containerized prior to setting to the curb.**

(B) ~~[Large]~~ **Bulk** items, additional specifications.

(1) **Yard waste.** Any loose shrubbery or tree limbs that are set out as a ~~[large]~~ **bulk** item must be bundled and tied in lengths weighing less than 50 pounds, and not exceeding four feet in length, or two feet wide.

(2) **Household Debris. All household debris must be bagged, tied securely and containerized. Use of a private waste receptacle is only permissible when placing bulk items or excess trash to the curb for disposal.**

~~[2]~~ (3) **Mattresses and upholstered furniture.** Together one mattress and one box spring shall be considered one **bulk** ~~[large]~~ item. Mattresses and upholstered furniture will not be collected unless such items are wrapped in plastic **and secured appropriately.**

~~[3]~~ (4) **Refrigerants.** Discarded appliances equipped with Freon will not be collected unless the owner or occupant provides documentation to the contractor, 48 hours prior to the day on which the item is to be collected, that the Freon has been removed by a certified technician.

~~[4]~~ (5) **Carpet.** Carpet and carpet padding shall be cut into four-foot sections, rolled or folded, and tied securely into bundles that do not exceed 50 pounds per bundle.

[5] **(6)** Assembled **bulk** [large] items, such as appliances and swing sets, must be disassembled prior to pick-up. Refrigerator doors must be removed prior to setting out for pick-up.

[6] **(7) Paint.** [Paint cans and painting materials must be completely dry before being set out for collection. Paint cans must be left open.] **The only type of paint permissible for disposal during a curbside collection is “latex-based” or “water-based” paint. “Oil-based” paint is strictly prohibited. Paint cans and painting materials must be completely dry before being set out for collection. Paint cans shall not be placed inside a cart instead, paint cans shall be placed at the curb with the lids removed, for inspection and collection.**

(C) *Placement of [large] bulk items.* [Each large] **Bulk** items must [have a city-issued sticker affixed to the visible portion of the item and be placed at the curbside on the collection day and in the manner set forth in this chapter. Owners and occupants of residential parcels are encouraged, but not required, to alert the contractor 48 hours prior to the collection day on which a large item will be placed at the curbside to allow the contractor to plan accordingly.] **be placed at the curb in coordination with routine servicing dates and times, unless a customer has scheduled a ‘special pick-up’ with the City’s waste contractor in accordance with § 95.06(D). Bulk items are required to be placed to the curb in accordance with the curbside disposal requirements of § 95.05(B).**

(D) *Special pick-ups.* Owners or occupants of residential parcels wishing to dispose of a [large] **bulk** item [without a sticker, or] on a day other than their **routine** collection day, must contact the contractor not less than 48 hours prior to the day upon which the owner of occupant wishes to have the large item collected. Owners or occupants must neatly place at the curb[side] any [large] **bulk** items scheduled to be collected in the same manner as provided in § [95.06(C)] **95.06(B)** above.

(E) *Use of private receptacles for [large] bulk items.* [Large] **Bulk** items weighing 50 pounds, or less, and that fit completely inside a private receptacle may be deposited in such receptacle and placed curbside for collection. [Private receptacles will only be serviced if the owner of a residential parcel, or its occupants places a sticker on top of the waste placed inside the private cart, or makes arrangements for a special pick-up.] **Private receptacles used for disposal shall operate in a reasonable and functioning manner, including having access to handles, or wheels, having a proper lid; and ensuring the receptacle is not deteriorated or damaged, so that it may be serviced without issue. Use of a private waste receptacle is permissible only when disposing of bulk items or excess debris. Items placed into a private receptacle for collection, specifically loose or household debris, shall be bagged and secured appropriately.**

Section 5

Section 95.07 of the Covington Code of Ordinances, Sanitation and Health, “Other Violations,” is hereby amended to read as follows:

§ 95.07 OTHER VIOLATIONS.

In addition to the violation of any other rules provided in this chapter, the following shall constitute a violation for which penalties may be imposed.

(A) *Use of unassigned carts.* Possessing or making use of carts that are not assigned to the parcel being serviced.

(B) *Overloaded carts.* Overloading carts with waste or recyclables weighing more than 75 pounds, or such that the cart cannot be completely closed.

(C) *Unscheduled set out.* Setting out carts or [large] **bulk** items on a day other than the scheduled collection day, without making special collection arrangements.

(D) *Improper storage.* Storing waste, recyclables, carts or [large] **bulk** items on non-collection days in a manner that substantially deviates from the regulations provided in this chapter, or in an area that is visible from a public right of way. ~~[when the parcel could allow for storage of such items in a less visible area such as the side or the rear of a building or structure located on the parcel.]~~

(E) *Unauthorized use of carts.* Using city-issued or contractor-issued carts for any purpose other than the temporary storage or the disposal of waste or recyclables.

(F) *Unauthorized waste.* Storing or setting out for collection ~~[unauthorized] waste[.]~~ **that is strictly prohibited for curbside disposal, as detailed throughout this chapter, or setting out waste in a manner that is noncompliant with this chapter.**

Section 6

Section 95.09 of the Covington Code of Ordinances, Sanitation and Health “Containers; Disposal of Waste and Recyclables,” is hereby amended to read as follows:

§ 95.09 CONTAINERS; DISPOSAL OF WASTE AND RECYCLABLES.

In addition to any other rules provided in this section, commercial end users shall comply with, and multi-unit residential end users shall comply or cause any occupants of a multi-unit residential parcel to comply with the following rules.

(A) *Bagging of waste.* All waste items placed inside a container must be bagged, **with the exception of recyclables.**

(B) *Excessive items.* All waste or recyclables must fit completely within a container such that the lid to the container can remain closed at all times. ~~[The contractor is not responsible for collecting any items that are not completely contained within a container, or excessive items that fall out of the container as it is being serviced. It shall be a violation of this chapter for any excessive waste item to be placed outside of a container, unless prior arrangements have been made to collect the excessive items.]~~ In no event shall a[n]

bulk item be placed **curbside**, outside of a container **or in a private receptacle**, for more than one day.

(C) *Unauthorized waste.* Unless prior arrangements have been made with the contractor, owners, occupants and commercial end users shall not place any unauthorized waste [~~or large items~~] inside a container.

Section 7

Section 95.12 of the Covington Code of Ordinances, Sanitation and Health “Citations,” is hereby amended to read as follows:

§ 95.12 CITATIONS.

The city by and through its designees may issue citations and impose fines, penalties, and /or surcharges related to **a violation of any provision of this chapter, and the costs incurred for the abatement of any violation**, for each violation of any provision of this chapter. Commercial and industrial end users and owners of commercial, residential, multi-unit residential, or mixed-use parcels upon which a violation has occurred shall be responsible for responding to a citation, and for the payment of any fine, penalty, or surcharge imposed thereunder.

Section 8

Section 95.13 of the Covington Code of Ordinances, Sanitation and Health “Exceptions,” is hereby amended to read as follows:

§ 95.13 EXCEPTIONS.

Upon a showing of hardship or good cause, **and in accordance with applicable laws and regulations**, the **City Manager** [~~of the Community Services Division~~], or his or her designee, upon the recommendation of the solid waste coordinator, may make exceptions to the requirements of this chapter. Such exceptions shall be in writing and placed in the records of the **Neighborhood Services Department** [~~Community Services Division~~] of the City of Covington.

Section 9

Section 95.15 of the Covington Code of Ordinances, Sanitation and Health “Owner Cures,” is hereby amended to read as follows:

§ 95.15 OWNER CURES.

Upon receipt of a notice of violation issued by the City Manager, or his or her designee, [Ø]owners of residential or multi-unit residential parcels and commercial, industrial or mixed-use end users may cure a condition that constitutes a violation of § 95.01 through 95.11 **to** [~~and~~] avoid any further action by city[, ~~by properly~~

removing and/or storing set outs, excessive or unauthorized waste in the manner provided in this chapter and calling the contractor by no later than 12:00 p.m. on the business day following the occurrence of the violation]. Owners of residential or multi-unit residential parcels and commercial, industrial or mixed-use users who fail to cure such violations shall be subject to fines and penalties as set forth in this chapter and/or be responsible for the reasonable cost of labor and materials incurred to abate the violation as provided in Chapter 92 of Code of Ordinances.

Section 10

Section 95.60 of the Covington Code of Ordinances, Sanitation and Health "Enforcement, Fines and Appeals," is hereby amended to read as follows:

§ 95.60 ENFORCEMENT, FINES AND APPEALS.

This chapter may be enforced by any peace officer, police, [~~parking enforcement person~~] ***citation officer, the City Manager, or his or her designee, the*** Solid Waste coordinator, ***any*** code enforcement officer, or ***any*** housing inspector (hereinafter "enforcement officer"). [~~Depending upon the violation, the~~] ***Violations*** may be enforced through the Covington Code Enforcement Board [~~or through a civil penalty enforcement mechanism~~].

Section 11

Section 95.61 of the Covington Code of Ordinances, Sanitation and Health "Civil Penalties for Violation," is hereby amended to read as follows:

§ 95.61 PENALTIES FOR VIOLATION.

(A) ***Violations of the rules and regulations set forth in this chapter shall constitute a civil offense and*** an enforcement officer may issue a [~~n~~] [~~administrative fine ticket~~] ***citation*** to the person found to be in violation of these sections of the chapter, in accordance with the applicable procedures set forth in Chapter 92 of the Covington Code of Ordinances. In the event a [~~ticket~~] ***citation*** is issued, the [~~ticket~~] ***citation*** shall bear a civil penalty ***in accordance with the fines established in § 95.65, the costs of abatement, or both.*** [~~of \$100 and if the ticket is not paid to the city within five days, excluding Sundays and holidays after its issuance, the civil penalties shall double, and the code enforcement officer may cause to be issued a criminal complaint in the Kenton District Court for a violation of these ordinance sections.~~]

(B) ***As an alternative to the imposition of civil fines,*** [A]any person violating the provisions set forth in division (A) of this section shall be guilty of a misdemeanor and, in addition to or in lieu of any other penalty, the person may be in the sound discretion of the court, directed by the court to pick up and remove from any public place or any private property, with permission of the owner or the person in possession of the property, upon which it is established that the person has deposited litter, any and all litter deposited thereof by anyone prior to the date of the execution of sentence. Violation of any portion of these ordinance sections is punishable by a fine of not less than

\$100 or more than \$500 and for the removal of litter from areas designated by the courts. Each and every day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense.

(C) *Amount exceeding reportable quantity.* **As an alternative to the imposition of civil fines, the person responsible for a violation of § 95.50, in relation to a hazardous material release in an amount exceeding the reportable quantity shall be deemed guilty of a misdemeanor and may be fined not more than \$500 per day or imprisoned in the county jail for not more than one year** [may be fined not more than \$500, if the release is not an authorized release], and if the release involved willful violation, negligence, or repeated spills under similar conditions and where a significant quantity of hazardous material is involved taking into account real or potential damage to the environment and threat to the public health. Every incident giving rise to such a release shall constitute a separate offense; however, no person shall be held responsible for more than one violation per day where the violations occur at the same facility and are casually related.

(D) *Failure to notify Police/Fire Dispatch Center.* **As an alternative to the imposition of civil fines, [The] any person who fails to notify the Police/Fire Dispatch Center as required by § 95.50(F) shall be deemed guilty of a misdemeanor and may be fined not more than \$500 or imprisoned in the county jail for not more than one year.**

Section 12

Section 95.62 of the Covington Code of Ordinances, Sanitation and Health “Civil Fines; Residential Owners and Commercial End Users,” is hereby amended to read as follows:

§ 95.62 CIVIL FINES; RESIDENTIAL OWNERS AND COMMERCIAL END USERS.

[Except for a violation of § 95.04(C) of this chapter, any owner or commercial end user found to be in violation of §§ 95.01 through 95.11 shall be subject to a civil fine of not less than \$50 per day per violation and not more than \$500 per day per violation, and shall be liable for the reasonable costs of labor and materials incurred by the city to abate the violation.] **Violations of §§ 95.01 through 95.50 shall constitute a civil offense and an enforcement officer may issue a citation to the person found to be in violation of these sections of the chapter, in accordance with the applicable procedures set forth in Chapter 92 of the Covington Code of Ordinances. In the event a citation is issued, the citation shall bear a civil penalty in accordance with the fines established in § 95.65, the costs of abatement, or both.** Each day that a violation continues to exist after a citation [or notice of violation] has been issued in accordance with the applicable procedures set forth in Chapter 92 of the Covington Code of Ordinances may be deemed a separate offense, but in no event shall the fine exceed \$10,000 for any one violation.

Section 13

Section 95.63 of the Covington Code of Ordinances, Sanitation and Health “Civil Fines; Industrial Users,” is hereby amended to read as follows:

§ 95.63 CIVIL FINES; INDUSTRIAL USERS.

~~[Except for a violation of § 95.04(C) of this chapter, the owner of a parcel upon which a violation of the rules regarding open top container services has occurred, shall be subject to a civil fine of not less than \$100 per day per violation and not more than one \$1,000 per day per violation, and shall be liable for the reasonable costs of labor and materials incurred by the city to abate the violation, including any surcharges.]~~
Violations of §§ 95.01 through 95.50 shall constitute a civil offense and an enforcement officer may issue a citation to the person found to be in violation of these sections of the chapter, in accordance with the applicable procedures set forth in Chapter 92 of the Covington Code of Ordinances. In the event a citation is issued, the citation shall bear a civil penalty in accordance with the fines established in § 95.65, the costs of abatement, or both. Each day that a violation continues to exist after a citation ~~[or notice of violation]~~ has been issued in accordance with the applicable procedures set forth in Chapter 92 of the Covington Code of Ordinances may be deemed a separate offense, but in no event shall the fine exceed ~~[\$2]~~**10,000** for any one violation.

Section 14

Section 95.64 of the Covington Code of Ordinances, Sanitation and Health “Penalties for Repeat Violators,” is hereby amended to read as follows:

§ 95.64 PENALTIES FOR REPEAT VIOLATORS.

For each distinct parcel, any owner who has been found to have violated, or on whose parcel an occupant or end user has been found to have violated any provision of this chapter on more than three occasions within a ~~[12-]~~ **twelve** month period may be subject to additional civil penalties for any subsequent violations. **This includes, but is not limited to, an automatic doubling of the fines for any violations in excess of three violations within a twelve month period, provided however that no fine for any violation shall exceed \$10,000** ~~[in the amount of not less than \$100 per day per violation and not more than \$1,000 per violation per day, but in no event shall the fined exceed \$20,000 for any one violation].~~

Section 15

Section 95.65 of the Covington Code of Ordinances, Sanitation and Health “Liens,” is hereby amended to read as follows:

§ 95.65 [LIENS] CIVIL FINES.

[Pursuant to KRS 65.8835, and Chapter 92 of the Covington Code of Ordinances, the city may impose a lien on the parcel upon which a violation has been cited, to secure the city's right to collect any fines, penalties, charges, attorney's fees, and other reasonable costs related to the enforcement of the provisions of this chapter.]

Violations of this Chapter which have been designated as enforceable as civil offense shall be subject to the following schedule of civil fines:

(A) If a citation for a violation of this Chapter is not contested by the person charged with the violation, the penalties set forth in this subsection apply:

Fine Structure:

RESIDENTIAL SERVICES

<u>§§ 95.05(B) Collection times</u>	<u>\$25.00</u>
<u>§ 95.05(C) Placement of carts</u>	<u>\$25.00</u>
<u>§ 95.05(D) Removal of carts</u>	<u>\$25.00</u>
<u>§ 95.05(E) Placement of stored cards</u>	<u>\$25.00</u>
<u>§ 95.05(F) Trash disposal</u>	<u>\$25.00</u>
<u>§ 95.05(G) Recycling</u>	<u>\$25.00</u>
<u>§95.05(H) Loading of carts</u>	<u>\$25.00</u>

<u>§ 95.06(B) Bulk item specifications</u>	<u>\$25.00</u>
<u>§ 95.06(C) Placement of bulk items</u>	<u>\$25.00</u>
<u>§ 95.06(D) Special pick-ups</u>	<u>\$25.00</u>
<u>§ 95.06(E) Use of private receptacle</u>	<u>\$25.00</u>

<u>§ 95.07(A) Use of unassigned carts</u>	<u>\$50.00</u>
<u>§ 95.07(B) Overloaded carts</u>	<u>\$50.00</u>
<u>§ 95.07(C) Unscheduled set out</u>	<u>\$50.00</u>
<u>§ 95.07(D) Improper Storage</u>	<u>\$50.00</u>
<u>§ 95.07(E) Unauthorized use of carts</u>	<u>\$50.00</u>
<u>§ 95.07(F) Unauthorized waste</u>	<u>\$75.00</u>

COMMERCIAL SERVICES

<u>§ 95.08(D) Placement and screening</u>	<u>\$100.00</u>
<u>§95.08(E) Maintenance</u>	<u>\$100.00</u>

<u>§ 95.09(A) Bagging of Waste</u>	<u>\$50.00</u>
<u>§ 95.09(B) Excessive Items</u>	<u>\$75.00</u>
<u>§ 95.09(C) Unauthorized Waste</u>	<u>\$100.00</u>

<u>§ 95.10(A) Frequency of service/ max. carts</u>	<u>\$50.00</u>
<u>§ 95.10(B) Placement of carts</u>	<u>\$50.00</u>
<u>§ 95.10(C) Interruption of Services</u>	<u>\$100.00</u>

INDUSTRIAL SERVICES

<u>§95.11(A) Permitting and placement</u>	<u>\$50.00</u>
<u>§ 95.11(C) Frequency of service</u>	<u>\$50.00</u>
<u>§ 95.11(D) Maintenance</u>	<u>\$100.00</u>
<u>§ 95.11(E) Special pick-ups</u>	<u>\$50.00</u>
<u>§ 95.11(F) Unauthorized waste</u>	<u>\$100.00</u>
<u>§ 95.11(G) Dangerous disposal</u>	<u>\$100.00</u>

LITTER PROHIBITED

<u>§ 95.20 Scattering Solid Waste Prohibited</u>	<u>\$25.00</u>
<u>§ 95.21 Burning Prohibited</u>	<u>\$100.00</u>
<u>§95.30(A) through 95.30(B) Litter generally</u>	<u>\$30.00</u>
<u>§§95.31(A) through 95.31(D) Private receptacles</u>	<u>\$100.00</u>
<u>§ 95.32(A) Public receptacles, private use</u>	<u>\$50.00</u>
<u>§ 95.32(C) Private Property</u>	<u>\$25.00</u>
<u>§ 95.32(D) Business Premises</u>	<u>\$50.00</u>
<u>§§ 95.34(A) through 95.34(D) Removal of litter</u>	<u>\$100.00</u>
<u>§§ 95.35(A) through 95.35(B) Litter in parks/ water</u>	<u>\$25.00</u>
<u>§ 95.36(A) Littering on Private Property</u>	<u>\$50.00</u>

HAZARDOUS WASTE

<u>§§ 95.41 through 95.42 Permits/ prohibited acts</u>	<u>\$2,000</u>
<u>§§ 95.50(E) through 95.50(F) Reporting</u>	<u>\$5,000</u>

(B) If the citation is contested and a hearing before the code enforcement board is required, the following maximum penalties may be imposed at the discretion of the code enforcement board:

RESIDENTIAL SERVICES

<u>§§ 95.05(B) Collection times</u>	<u>\$50.00</u>
<u>§ 95.05(C) Placement of carts</u>	<u>\$50.00</u>
<u>§ 95.05(D) Removal of carts</u>	<u>\$50.00</u>
<u>§ 95.05(E) Placement of stored cards</u>	<u>\$50.00</u>
<u>§ 95.05(F) Trash disposal</u>	<u>\$50.00</u>
<u>§ 95.05(G) Recycling</u>	<u>\$50.00</u>
<u>§95.05(H) Loading of carts</u>	<u>\$50.00</u>
<u>§ 95.06(B) Bulk item specifications</u>	<u>\$50.00</u>
<u>§ 95.06(C) Placement of bulk items</u>	<u>\$50.00</u>
<u>§ 95.06(D) Special pick-ups</u>	<u>\$50.00</u>
<u>§ 95.06(E) Use of private receptacle</u>	<u>\$50.00</u>

<u>§ 95.07(A) Use of unassigned carts</u>	<u>\$100.00</u>
<u>§ 95.07(B) Overloaded carts</u>	<u>\$100.00</u>
<u>§ 95.07(C) Unscheduled set out</u>	<u>\$100.00</u>
<u>§ 95.07(D) Improper Storage</u>	<u>\$100.00</u>
<u>§ 95.07(E) Unauthorized use of carts</u>	<u>\$200.00</u>
<u>§ 95.07(F) Unauthorized waste</u>	<u>\$150.00</u>

COMMERCIAL SERVICES

<u>§ 95.08(D) Placement and screening</u>	<u>\$200.00</u>
<u>§95.08(E) Maintenance</u>	<u>\$200.00</u>

<u>§ 95.09(A) Bagging of Waste</u>	<u>\$100.00</u>
<u>§ 95.09(B) Excessive Items</u>	<u>\$150.00</u>
<u>§ 95.09(C) Unauthorized Waste</u>	<u>\$200.00</u>

<u>§ 95.10(A) Frequency of service/ max. carts</u>	<u>\$100.00</u>
<u>§ 95.10(B) Placement of carts</u>	<u>\$100.00</u>
<u>§ 95.10(C) Interruption of Services</u>	<u>\$200.00</u>

INDUSTRIAL SERVICES

<u>§95.11(A) Permitting and placement</u>	<u>\$100.00</u>
<u>§ 95.11(C) Frequency of service</u>	<u>\$100.00</u>
<u>§ 95.11(D) Maintenance</u>	<u>\$200.00</u>
<u>§ 95.11(E) Special pick-ups</u>	<u>\$100.00</u>
<u>§ 95.11(F) Unauthorized waste</u>	<u>\$200.00</u>
<u>§ 95.11(G) Dangerous disposal</u>	<u>\$200.00</u>

LITTER PROHIBITED

<u>§ 95.20 Scattering Solid Waste Prohibited</u>	<u>\$50.00</u>
<u>§ 95.21 Burning Prohibited</u>	<u>\$200.00</u>
<u>§95.30(A) through 95.30(B) Litter generally</u>	<u>\$60.00</u>
<u>§§95.31(A) through 95.31(D) Private receptacles</u>	<u>\$200.00</u>
<u>§ 95.32(A) Public receptacles, private use</u>	<u>\$100.00</u>
<u>§ 95.32(C) Private Property</u>	<u>\$50.00</u>
<u>§ 95.32(D) Business Premises</u>	<u>\$100.00</u>
<u>§§ 95.34(A) through 95.34(D) Removal of litter</u>	<u>\$200.00</u>
<u>§§ 95.35(A) through 95.35(B) Litter in parks/ water</u>	<u>\$50.00</u>
<u>§ 95.36(A) Littering on Private Property</u>	<u>\$100.00</u>

HAZARDOUS WASTE

<u>§§ 95.41 through 95.42 Permits/ prohibited acts</u>	<u>\$4,000</u>
<u>§§ 95.50(E) through 95.50(F) Reporting</u>	<u>\$10,000</u>

Section 16

Section 95.66 of the Covington Code of Ordinances, Sanitation and Health "Criminal Penalties," is hereby amended to read as follows:

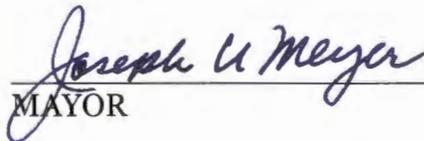
§ 95.66 [CRIMINAL PENALTIES] LIENS.

[Pursuant to KRS 512.040, any person found to have intentionally or wantonly defaced, destroyed, or damaged a cart or container shall be charged with a Class B misdemeanor.]

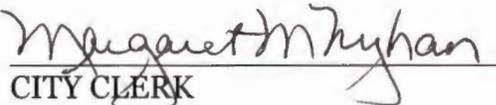
The City shall possess a lien on real property owned by the person found by a nonappealable final order as defined within § 92.03, or by a final judgment of a court to have committed a violation of a City ordinance. Such lien shall include all civil fines, charges, fees, and abatement costs incurred by the City. The requirements of § 92.20 relating to the perfection of the City's lien interest shall be followed.

Section 17

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.


MAYOR

ATTEST:


CITY CLERK

Passed: 8-28-18 (Second Reading)

8-14-18 (First Reading)