

**COMMON COUNCIL  
Agenda Request Form**

(Form B-01-2012)

*Organizations and individuals are asked to submit a request form and supporting documents to be placed on the agenda. You will be contacted by the City confirming the date of the meeting in which your request will be heard. Please make sure that your contact information is accurate in case we need to get in touch with you. The Common Council meets on the 1st and 3rd Monday of each month at 6:00 p.m. in City Hall located at 70 E. Monroe Street.*

<b>Date Submitted:</b>	12.15.2021	<b>Meeting Date:</b>	12.20.2021
<b>Contact Information:</b>			
<b>Requested by:</b>	Lynnette Gray		
<b>On Behalf of Organization or Individual:</b> City of Franklin			
<b>Telephone:</b>	317-738-3365		
<b>Email address:</b>	lynng@jgmlawfirm.com		
<b>Mailing Address:</b>	63 E. Court St., P.O. Box 160, Franklin, IN 46131		
<b>Describe Request:</b>			
Introduction of Ordinance Approving Trash Collection, Curbside Recycling and Collection of Fees			
<b>List Supporting Documentation Provided:</b>			
Ordinance 2021-28			
<b>Who will present the request?</b>			
<b>Name:</b>	Lynnette Gray, City Attorney	<b>Telephone:</b>	317-736-3365

*In order for an individual and/or agency to be considered for new business on the Common Council agenda, this reservation form and supporting documents must be received in the Mayor's office no later than 4:00 p.m. on the Wednesday before the meeting.*

**ORDINANCE NO.: 2021-28**  
**OF THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA**

**AN ORDINANCE APPROVING TRASH COLLECTION, CURBSIDE RECYCLING AND  
COLLECTION OF FEES**

**WHEREAS**, the City of Franklin by and through the Common Council, believes it to be in the best interests of the citizens of Franklin to provide residential users, as herein defined, with trash collection and curbside recycling services; and

**WHEREAS**, the Common Council of the City of Franklin, Indiana believes it fiscally prudent that said trash collection and curbside recycling program be self-sustaining through apportionment and collection of fees; and

**WHEREAS**, the Common Council has received solicited bids or quotes for the purposes of providing services under the trash collection and curbside recycling program to residential users as defined herein and desires to collect fees for said program from its users.

**NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA, ORDAINS AS FOLLOWS:**

**ARTICLE ONE**

**I. Definitions.**

As used in this Article, the terms listed below shall have the following meanings:

**a. CITY** shall mean the City of Franklin and when used in reference to the geographic location, shall mean the corporate limits of the City of Franklin, Indiana, including annexed areas, at the time that trash collection and curbside recycling services are rendered under any contract entered into in accordance with this Ordinance.

**b. CONTACTOR** shall mean the successful bidder on any contract let pursuant to this Ordinance.

**c. RECYCLABLES** or **RECYCLABLE MATERIALS** may include, for example, aluminum and bimetal cans, and clear, brown or green glass containers, cardboard, or such materials as the Board of Public Works and Safety shall determine from time to time and as markets become available or unavailable.

**d. RESIDENTIAL USER** shall mean a person or household or owner of a residence, within the corporate limits of the City, which uses or has available for use the service provided, regardless of usage pursuant to this Ordinance, and whose premises or building is used primarily as a residence for one (1) or more persons. Such term shall include the individual units of a two-family dwelling structure (duplex) if each individual unit receives a separate wastewater bill from the City of Franklin Sanitation Department. Dwelling structures with three (3) or more units under one roof or multi-family project complexes (not including duplexes) are considered to be larger-scale commercial operations and are not included in this program. Such term shall NOT include residential units under construction without a certificate of occupancy issued or properties located

on private streets.

**e. TRASH** shall mean ashes, rags, garden refuse, kitchen refuse, paper products, brush which is cut and tied in bundles three (3) feet or less, and other ordinary household waste which will fit within the provided containers. Such term shall not include grass clippings or leaves, furniture, appliances, trees, limbs, construction or demolition debris, paint, oil, batteries, and other hazardous waste. Additionally, such term shall not be confused with the term “heavy trash” which may be a supplemental service under this program and which would be as defined in the bid or quote documents requesting such services and the resulting services contract(s).

**f. Waste Management** shall refer to trash, recycling and heavy trash pick-up service. This term may also include limb and leaf removal which may be provided as a separate service by use of the City’s workforce.

## **II. Role of Board of Public Works and Safety.**

The City shall proceed with development and implementation of a trash collection and recycling program as provided in this Article for the collection, removal and/or disposal of solid waste such as, but not limited to trash, heavy trash, hazardous or regulated waste or yard waste. The Board of Public Works and Safety of the City of Franklin is authorized to do all acts and execute all documents necessary to accomplish the aims of this Ordinance, including, but not limited to the following:

a) Solicit bids or quotes and let or execute one or more contracts to provide services under the trash collection and curbside recycling program to residential users as defined herein within the City of Franklin.

b) Determine the qualifications to be required of potential bidders which the Board of Public Works and Safety deems desirable, giving proper regard to experience and financial responsibility while not unduly limiting the ability of potential bidders to present creative and flexible solutions to the problems presented by the specifications.

c) Develop bid specifications which require, at minimum, the following:

1) That the successful bidder(s) pick up trash at least weekly and recyclable materials at least every other week from residential users within the City.

2) That the successful bidder has the ability to use or seek markets for the recyclable materials collected.

3) That City buildings be provided with adequate trash collection and recycling services.

d) Develop and implement a program for eliminating yard waste (grass clippings and leaves) from the waste stream produced by citizens of the City of Franklin pursuant to I.C. 13-7-29-1 et seq. as amended and supplemented and consider the feasibility of a program to dispose of tree limbs and brush, and develop and implement such a program, if feasible.

As a part of one of the contracts contemplated by this Ordinance or pursuant to a separate contract for the trash collection and curbside recycling program, the Board of Public Works and Safety may contract to provide collection and chipping of a limited amount of brush and limbs per

household as often as determined by the Board of Public Works and Safety, at a price or fee to be set through quoting and public bidding or through use of the City's own workforce, plus a reasonable administrative fee, as may be appropriate as a supplemental service of the trash collection and curbside recycling program.

A trash collection and curbside recycling program component or supplemental service may also establish a price or rate, determined by bidding or quoting, at which users may purchase additional amounts of these services, for which the contractor may bill the users directly as the Board of Public Works and Safety determines.

Any such contract for supplemental services entered into by the Board of Public Works and Safety for this part of the trash collection and curbside recycling program will not necessarily be exclusive; users may contract privately with any provider for such additional services.

e) Make and enforce such by-laws and regulations as may be deemed necessary for the safe, economic and efficient management of the City's trash collection and recycling program and its components or supplemental services, and for the regulation, collection, rebating and refunding of any fees and charges as may be required to implement said program services.

f) Nothing in this Ordinance shall be construed to prohibit the Board of Public Works and Safety, with the approval of the Common Council, to enter into interlocal cooperation agreements to provide any services which further any of the aims of the trash collection and curbside recycling program.

### **III. Department of Waste Management.**

Pursuant to I.C. 36-4-9-4, the City Street Department shall be designated as the executive department necessary to efficiently perform the administrative functions required to fulfill the needs of the City's citizens pursuant to this Ordinance. The City of Franklin wastewater billing department is designated the administrative department charged with the duty to bill and collect the fees established by this Ordinance. The Board of Public Works and Safety may recommend staffing and may have some employees of the Street Department provide administrative services. If Street Department employees provide services, then a portion of their salaries may be paid out of the fund established herein.

### **IV. Officials Authorized.**

Officials of the City of Franklin are authorized to do all acts and execute all documents on behalf of the City which may be necessary to accomplish the aims of this Ordinance.

### **V. Fees.**

a) *User Fees.* For the services available in connection with any contract for trash collection and recycling to City users, a fee of Seventeen Dollars and 22 Cents (\$17.22) per month shall be charged to each residential user of the service or owner of property to which the service is available, regardless of usage, beginning April 1<sup>st</sup>, 2022 and continuing each month thereafter until amended or terminated by action of the Common Council of the City of Franklin.

b) The bill for this fee shall be added and included on the users monthly wastewater bill and shall be due and owing in accordance with the terms and conditions of the users wastewater and storm water billing.

c) *Application of Fees.* This user fee shall pay the costs of services provided to users pursuant to a contract with a waste management service provider entered into by the Board of Public Works and Safety and for the City's administrative and operational expenses associated with the service, which may include, but not limited to, labor, office furnishings and supplies, accounting and other professional services, equipment, and any other expenses which are reasonably related to the administration and operation of the service. If a user makes payment of a bill for less than the full amount due for wastewater, stormwater, trash and recycling, payment shall first be applied to amounts owed for wastewater, then stormwater and then trash and recycling. Nothing in this Ordinance authorizes a user to pay less than the full amount due on the billing and collection of unpaid sums may proceed in accordance with the provisions of this Ordinance.

d) *Billing Cycle.* All waste management bills shall be rendered on a monthly basis. For purposes of this Section, a month shall be considered a period of 25 days up to and through 35 days depending on billing cycles. Any billing for waste management service outside this time shall be on a per diem basis.

e) *Late and NSF Fees.*

1) The waste management service charges shall be due on the payment date set out on the bill. It shall be a violation of this Section to fail to pay a waste management service bill when due. All bills for waste management services not paid on or before the due date, shall be subject to a collection or deferred payment charge of 10% on the outstanding balance.

2) Payments made by check or other negotiable instrument that are returned for non-sufficient funds may be subject to an NSF fee of Twenty Seven and 50/100 Dollars (\$27.50) plus an amount equal to the actual charge by the depository institution for negotiable instruments returned for insufficient funds. When an NSF fee is imposed under this subsection, the City shall notify the maker or drawer, or the person for whose benefit the instrument was given, to inform them that the instrument was dishonored or returned unpaid and that the person has ten (10) days after the date the notice is mailed to pay the total amount due, including the NSF fee, in cash, certified check, or other guaranteed payment. If the person fails to make payment within the ten (10) day period, the City may file a civil action for the amount due, including the NSF fee, court costs, reasonable attorney's fees, and treble damages. If payment is not received with respect to dishonored checks within ninety (90) days after the check is initially received, the matter may be referred to the Johnson County Prosecutor in accordance with I.C. 36-1-8-13.

3) Payments made by credit or debit card that are denied by the card issuer may be subject to chargeback fee of Twenty and no/100 dollars (\$20.00) plus an amount equal to the actual costs incurred by the City as a result of the chargeback. When a chargeback fee is imposed under this Subsection, the City shall notify the cardholder that the payment was denied and that the person has ten (10) days after the date the notice is mailed to pay the total amount due, including the chargeback fee, in cash, certified check, or other guaranteed payment. If the person fails to make a payment within the ten (10) day period, the City may file a civil action for the amount due, including the chargeback fee, court costs, reasonable attorney's fees, and treble damages.

f) *Payment Priority.* Partial payments shall be applied in this order: 1) any NSF fee on the account; 2) any late fees on the account; 3) past due balances; and 4) current balances. In the event the City should elect to combine waste management service bills within any other City utility bills, partial payments shall be applied in this order as between utilities: 1) sanitary wastewater fees; 2) stormwater service fees; and 3) waste management fees. This provision only

applies to utility bills appearing on the same bill.

g) *Collection.* The Board of Public Works and Safety is authorized to determine the methods and procedures to administer the waste management program and to collect the fees provided for herein and may employ the City Attorney or other attorneys, agencies, or individuals to collect fees which are determined to be delinquent in accordance with Ind. Code § 36-9-30-21 (et sec). If a residential user of the services fails to pay the fee within thirty (30) days after it is due, the amount of the fee, together with a penalty of ten percent (10%) a reasonable attorney's fee and costs of collection, may be recovered by the City. A civil action in the name of the City, may be instituted.

## **VI. Agreement of Fees.**

The Board of Public Works and Safety or its designee is authorized to rebate to residential users the amount of fees which would otherwise be due when the residence is vacant and unoccupied for a period of at least three (3) consecutive full calendar months during any calendar year, and all of the following have occurred:

a) The residential user has filed a formal, timely, request with the Clerk Treasurer to be placed and heard on the Board of Public Works and Safety regularly scheduled meeting occurring at least thirty (30) days in advance of the period when service will not be needed; the residential user must file their request with the Clerk Treasurer no later than the Wednesday immediately preceding the Board of Works Meeting at which the request is to be heard.

b) A claim or other appropriate written request has been presented to the Board of Public Works and Safety for approval and the Board of Public Works and Safety, in its sole and absolute discretion, has determined an abatement is appropriate and dates the abatement is effective.

Any such abatement granted by the appropriate authority shall be shown as a credit upon the next bill owed by the residential user.

## **VII. Trash and Garbage Pick-Up Fund.**

There is established in the City a Special Non-Reverting Fund, to be known as the TRASH and GARBAGE PICK-UP FUND #623, into which shall be deposited all monies received as a result of the contracts let pursuant to this Ordinance and the collection of fees from the residential users. This fund shall be used to pay the costs and expenses listed in this Ordinance, if any and under the Contracts for delivery of the service.

## **VIII. Additional Property and Residential Users.**

The services and fees applicable to residential users shall be automatically extended to cover any additional residential users which are subsequently served under any contract entered into pursuant to this Ordinance, without any additional notice, hearing or action by the Common Council.

## **IX. Bag Limit.**

To achieve the goals of I.C. 13-7-1-1, not more than two (2) 96-gallon wheeled carts shall

be picked up weekly from each residential user and one (1) 96-gallon wheeled cart for recycling on a bi-weekly basis. The contractor providing the service shall provide the user one (1) 96-gallon wheeled cart for trash and one (1) 96-gallon wheeled cart for recycling. The cost of an additional wheeled cart for trash, as well as any damage done to the provided carts shall be the responsibility of the user.

#### **X. Recyclable Materials.**

Recyclable materials shall be separated from trash and shall be placed in an appropriate container which shall be placed at curbside, but not in the street, for collection at the same time that trash is picked up or the day before or following trash collection in accordance with the Contract for Services from the Contractor.

#### **XI. Containers.**

Residential users shall place trash and recyclable materials in containers provided by the contractor at curbside, but not in the street, no earlier than 24 hours before scheduled trash pick-up. The contractor may refuse to pick up containers in an amount exceeding that allowed in IX above or trash that is improperly prepared or recyclables which are improperly prepared, after the contractor has given appropriate notice to the residential user. Residential users shall remove the containers from their curbside locations not later than 24 hours after service. All trash placed for collection shall be properly secured to avoid becoming litter. Failure to properly secure trash will subject the residential user to civil penalty of fifty dollars (\$50.00) per incident.

#### **XII. Removal of Recyclable Materials.**

When recyclable materials are placed at curbside, they become the property of the contractor, and no person other than the contractor or the residential user may remove such materials, except as otherwise provided by the Board of Public Works and Safety. Unauthorized removal of such material shall subject the violator to a civil penalty of \$100.00 per incident.

#### **XIII. Contractor's Legal Rights.**

The contractor may bring a civil action against any person, firm or corporation who violates XII above. This shall be in addition to any other penalties or remedies.

#### **XIV. Donations.**

Nothing in this Ordinance shall be construed to prevent any person or organization from donating or selling recyclable materials to any person, club, business, civic or charitable organization or any other organization.

#### **XV. Breach of Contract.**

The contract to be let in accord with this Ordinance may provide for certain penalties to be imposed upon the contractor for poor service or other breaches of the contract, as determined by the Board of Public Works and Safety.

#### **XVI. Voluntary Option to Participate in Trash Collection and Curbside Recycling 'Opt in'.**

The Board of Public Works and Safety may develop and implement a program by which potential users who do not meet the strict requirement of the definition of 'residential user' may opt into the trash collection and curbside recycling program. The program should provide the following:

a) The users may only dispose of residential waste as provided for by this Article and must otherwise meet all of the regulations of the program, such as container limits.

b) The users must be residents of the City who would not otherwise meet the definition of residential user (not receive a separate wastewater bill, have more than the permitted units in a multi-family dwelling structure within a project, etc.) and must be able to provide adequate access to the contractor for pick-up of trash and recyclables.

c) Rules governing the procedure should provide that users who 'opt in' to the trash collection and curbside recycling program must remain in the program for the term of any contract or contracts let pursuant to this Article as designated by the Board of Public Works and Safety in the 'Opt in' agreement and may not terminate service at any time other than expiration of said contract terms without the prior approval of the Board of Public Works and Safety.

The Board of Public Works and Safety is hereby authorized to enter into a contract allowing for the exercise of this 'opt in' provision at its sole and absolute discretion. The Board of Public Works and Safety is not required or mandated to establish an opt in program.

#### **XVII. Voluntary Option to Participate in Leaf and Limb Program.**

The Board of Public Works and Safety may develop and implement a program by which residential users may opt into the leaf and limb collection program. The program shall provide the following:

a) The program shall be a strictly opt-in/voluntary program.

b) Users of the program shall not be charged an annual fee for this program if the Board of Public Works and Safety chooses to develop such a program.

c) Users shall be subject to all rules and regulations applicable to residential users of the program.

d) All leaves and limbs must be from property located within the City limits. Entities may not bring in material from outside the City.

e) The program may exclude commercial properties.

#### **XVIII. Repeal of Prior Ordinance.**

Upon adoption, this Ordinance shall repeal and replace any prior Ordinances or Resolutions inconsistent with the terms and conditions set forth above.

#### **XIX. Effective Date.**

This Ordinance shall become effective upon its adoption and publication as required by



law.

Introduced and Filed on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

DULY PASSED on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote \_\_\_\_ in Favor and \_\_\_\_ Opposed.

City of Franklin, Indiana, by its Common Council:

Voting Affirmative:

Voting Opposed:

\_\_\_\_\_  
Kenneth Austin, President

\_\_\_\_\_  
Kenneth Austin, President

\_\_\_\_\_  
Melissa Jones

\_\_\_\_\_  
Melissa Jones

\_\_\_\_\_  
Robert D. Heuchan

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Robert D. Heuchan

\_\_\_\_\_  
Anne McGuinness

\_\_\_\_\_  
Anne McGuinness

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Irene Nalley

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Irene Nalley

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Josh Prine

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Josh Prine

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Shawn Taylor

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Shawn Taylor

Attest:

\_\_\_\_\_  
Jayne Rhoades,  
City Clerk Treasurer

Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana §36-4-6-15, 16 this \_\_\_\_\_ day of \_\_\_\_\_, 2021 at \_\_\_\_\_ o'clock \_\_\_\_ .M.

\_\_\_\_\_  
Jayne Rhoades,

City Clerk Treasurer

This Ordinance having been passed by the legislative body and presented to me was Approved  
by me and duly adopted, pursuant to Indiana Code §36-4-6-16(a)(1) this \_\_\_\_ day of  
\_\_\_\_\_, 2021 at \_\_\_\_\_ o'clock \_\_.M.

\_\_\_\_\_  
Steve Barnett, Mayor

Attest:

\_\_\_\_\_  
Jayne Rhoades,  
City Clerk Treasurer

Approved as to Form:

\_\_\_\_\_  
Lynnette Gray, City Attorney