

ORDINANCE 23-_____

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT THE BILLINGS, MONTANA CITY
CODE (BMCC) BE AMENDED BY REVISING ARTICLE 21-
200 OF SAID CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Article 21-200 of the Billings, Montana City Code (BMCC) is amended and renumbered so that such section shall read as follows:

DIVISION 1. – GENERALLY

Sec. 21-201. Definitions.

The following words and phrases, when used in this article, shall have the following meanings:

~~*Animal as a class of refuse, dead animals means those that die naturally or from disease, are accidentally killed, or disposed of administratively. Animals or parts of animals from slaughter houses or similar places are not included in this term, but are regarded as industrial refuse.*~~

Black container means a 64 gallon, 96 gallon, or other size container as designated by the city for residential solid waste.

~~*Cinders and ashes*~~ means the residue from the burning of wood, coal, coke, or other combustible materials in homes, stores, institutions and small industrial establishments, for the purpose of heating, cooking and disposing of waste combustible materials. Cinders produced in steam generating plants are included within the meaning of this term.

~~*Collection of solid waste means the city's operation of gathering together and transporting of solid waste to the point of disposal.*~~

Commercial means all business, industrial, institutional or agricultural establishments and all other properties that do not meet the residential definition. The city may allow multi-plex units to be classified as commercial at the owner's request.

Customer means a person or entity that has an established solid waste account and is billed directly by the city for collection of solid waste.

~~*Garbage includes animal and vegetable waste resulting from the handling, preparation, cooking and consumption of foods. It is composed largely of organic matters and their natural moisture content. The term includes within its meaning, food processing wastes from canneries, slaughter houses, packing plants or similar*~~

~~industries, or large quantities of condemned food products. Garbage also originates in kitchens, wholesale and retail stores and markets, restaurants, hotels and other places where food is stored, prepared, cooked or consumed.~~

Infectious waste is waste defined as "infectious waste" in Section 75-10-1003, Montana Code Annotated.

~~Refuse means all solid waste of any kind or type legally disposed through the operations of the city.~~

Residential means any property used as a permanent dwelling or abode by one (1) or more families including but not limited to single and multi-family, multi-plex, townhouse, apartment house, condominium, or any other housing unit, which receives once-a-week automated collection of black containers receptacles provided by the city designed for use by one or more families. Transient quarters, generally used as temporary residences, such as motels and hotels, are specifically excluded from the residential classification.

Residential service is defined as once-a-week automated collection of black containers provided by the city from residential properties.

Rubbish means all refuse not included in garbage solid waste and ashes. It consists of a great variety of combustible and noncombustible waste materials from households, stores and institutions. This waste is defined more specifically as "combustible rubbish" and "noncombustible rubbish," but whenever the word "rubbish" is used alone, it means a mixture of both. Trash is synonymous with rubbish.

- (1) *Building rubbish* means the waste materials from construction, remodeling and repairs on houses, commercial buildings and other structures. It comprises, among a great variety of other rejected matter, excavated earth, stones, bricks, plaster, wallpaper, lumber, shingles, concrete and waste parts.
- (2) *Combustible rubbish* comprises miscellaneous flammable materials. Generally, it is the organic component of rubbish, such as paper, rags, cartons, boxes, wood, excelsior, furniture, bedding, rubber, leather, tree branches, yard trimmings and similar material.
- (3) *Noncombustible rubbish* comprises miscellaneous solid waste ~~refuse~~ materials that are nonflammable at ordinary temperatures. For the most part, it is the inorganic component of rubbish, such as tin cans, metals, mineral matter, glass, crockery, dust, metal furniture, etc.
- (4) *Yard rubbish* consists of trimmings from trees, shrubs and hedges, branches, twigs, limbs, and trunks less than six (6) inches at the large end. ~~grass and shrub clippings, cut weeds, fallen leaves and general yard and garden waste materials.~~

~~Service means the frequency of collection each week and the size of containers used. Residential service is specifically defined as once-a-week automated collection of residential receptacles provided by the city from residential properties.~~

Solid waste means all trash consisting of everyday nonhazardous disposable materials generated by households, institutions, industries, and agriculture made up of waste, organics, and recyclable materials.

Yard waste service means once-a-week automated collection of green residential receptacles containers for yard waste provided by the city to from residential properties for anticipated collection between from the first full week of April until the last full week of November. ~~Yard waste may include garden waste, grass clippings, leaves, shrub pruning, smaller branches or twigs, and weeds. Yard waste specifically excludes dirt, sod, rocks, and animal drippings. Plastic bags must not be included in yard waste receptacles.~~

Sec. 21-202. Duty of owner or occupant.

- (a) It shall be the duty of the owner or occupant of any premises within the city limits to keep such premises and one-half of the alley immediately adjacent thereto and the gutter in front of or adjoining his or her property clean, open and free of wastepaper, cans, leaves or any unhealthy materials of any kind.
- (b) Before a complaint can be filed charging a violation of this section, the person to be charged must first be given written notice of the violation, setting forth in the notice the nature of the violation, and a period of five (5) days after receiving such notice to remedy the violation.
- (c) A violation of this section is designated as a municipal infraction and punishable by civil penalties as specified in section 18-1304.

Sec. 21-203. Infectious wastes.

- ~~(a)~~ "Infectious waste" shall not be placed with other noninfectious wastes or solid waste refuse for normal collection by the city.
- ~~(b)~~ The city administrator, or his designee, is authorized to issue written special permits to private individuals or entities permitting them to collect and remove infectious wastes within the city.
 - (1) Permits shall be issued only to those individuals or entities holding the licenses or permits required by Section 75-10-1006, MCA.
 - (2) Permits shall be issued on an annual basis.
 - (3) The permit fee shall be specified in the annual rate resolution. five hundred dollars (\$500.00) annually. Such fee shall be paid at the time of issuance of the permit and is nonrefundable.
 - (4) All permits shall contain a provision prohibiting disposal in the city landfill of infectious wastes which have not been treated so as to render them noninfectious.
 - (5) All permits shall contain a provision stating that the city may, in its sole discretion, refuse to renew the permit at the end of the annual period and elect to provide such services exclusively with city facilities and personnel.

(cd) It is unlawful for any person to dispose of or deposit in the city landfill any infectious wastes which have not been treated as described in Section 75-10-1005, MCA, so as to render them noninfectious and no longer biological hazardous.

Sec. 21-204. Inflammable waste; acids and explosives.

No person shall place or cause to be placed in or near the container receptacle provided for the removal of solid waste refuse, any highly inflammable wastes, acids or explosives of any kind whatsoever. All such materials shall be disposed of by the producer of the inflammable waste in a manner directed by the city.

Sec. 21-205. Yard waste rubbish.

~~All trimmings from trees, shrubs and hedges shall be securely tied in bundles not heavier than seventy-five (75) pounds, nor more than four (4) feet in length, nor more than two (2) feet in diameter, and shall be left at or near the place specified for receptacles. Tree branches, limbs or the trunks placed for collection shall not exceed six (6) inches at the large end. Any rubbish not meeting these specifications may or may not be collected at the option of the city. Yard waste may include garden waste, grass clippings, leaves, shrub pruning, smaller branches or twigs, and weeds. Yard waste specifically excludes dirt, sod, rocks, and animal droppings. Plastic bags must not be included in yard waste containers. Residential customers in subdivisions that do not have available on-site storage for yard waste containers are not eligible for yard waste service and will not be provided with yard waste containers. Such subdivisions are designated as ineligible by the Public Works Department.~~

All yard waste rubbish resulting from the work of a contractor or the like shall be removed by means provided by and at the sole expense and cost of the contractor. Yard waste service is not available for commercial customers.

Sec. 21-206. ~~Refuse~~ Solid waste containers ~~and receptacles~~—Duty to provide.

It is the duty of every owner or his or her agent or the occupant of any premises and all other persons occupying business premises wherein or whereon any solid waste is created in the city to provide or cause to be provided, and at all times to keep or cause to be kept in such places as the city may from time to time direct, containers, receptacles or racks that conform to the provision of this article. Whenever the city provides individual black containers barrels for ~~curb~~ collection ~~or community barrels for alley collection~~ of residential garbage solid waste, residents shall only use these black containers receptacles.

Sec. 21-207. ~~Same~~ Solid waste containers—Number required.

(a) *Residential properties.* There shall be a sufficient number of ~~receptacles~~ black containers to adequately hold the accumulation of ~~garbage refuse~~ residential solid waste for a period of seven (7) days. The city shall provide up to two containers for residential service and up to two containers for yard waste service to residential customers.

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- (b) *Commercial properties.* There shall be sufficient receptacles containers to contain hold all refuse solid waste generated between scheduled collection times. More frequent collections, additional or larger receptacles may be required at the direction of the city if there is an insufficient available capacity to contain the refuse solid waste generated.
- (c) Except as provided in Section 21-218, it is unlawful to cause or allow solid waste to be placed at the designated point of collection without being contained in a suitable container as herein described.

Sec. 21-208. Same Solid waste containers—Condition.

It is at all times the responsibility of the property owner or occupant to maintain receptacles containers in a good, clean and useable condition. Receptacles Containers that are not provided by the city and that have deteriorated to the extent of having jagged or sharp edges capable of causing injury to the collectors or others whose duty it is to handle the containers, or to the extent that the covers will not fit tightly or to the extent of allowing the refuse solid waste to be scattered, will be condemned by the city. Replacement will be required upon notification. Commercial type containers shall be in good condition at all times with proper and functional lids, wheels where applicable, not bent and free from holes. Barrels provided by the city will be repaired and replaced by the city.

Sec. 21-209. Same Solid waste containers—Size of residential containers.

Residential customers may be provided a 64 gallon black container or a 96 gallon black container, or some other size as designated by the city. A residential customer provided a 64 gallon black container may not have a second black container for residential service. The city shall provide all containers to residential customers for residential service and yard waste service. Plastic containers, receptacles, bags or sacks designed for the accumulating, storage and handling of refuse are also acceptable and will be picked up per approved published schedule or frequency.

Sec. 21-210. Same Solid waste containers—Storage.

- (a) Underground container storage is not permitted. When collection is made from the street, storage of containers shall not be close to the curb area except on collection days.
- (b) Commercial properties will provide suitable facilities for receptacle container storage to protect against the accidental dispersal of refuse solid waste about the property or alleys and streets of the city.

Sec. 21-211. Preparation of solid waste refuse for collection.

- (a) Ashes to be collected shall not contain any hot coals or ashes and shall be placed in a proper container. Hot coals or ashes will not be collected. The collectors are not required to collect hot ashes.
- (b) Solid Waste Refuse resulting from contract operations, tree trimming or removal including earth, plaster, metal, tile, brick, terra cotta, slate, shingles, roofing, tin, iron and construction litter in general shall be removed and disposed of by the person responsible for its production and in a manner and place approved by the city; provided, however, that small quantities of building rubbish resulting from minor alterations, or tree trimming done solely by the householder, will be collected by the city if properly contained.
- (c) Combustible rubbish of every kind whatsoever shall be securely wrapped, packed or contained in a manner that will prevent scattering by the wind and shall be deposited in a proper receptacle.
- (d) All city provided residential containers are to keep the area clean around the container. The recommended clearance is four (4) feet around the container.
- (e) All solid waste placed in black containers for residential service and all commercial containers shall be in bags, designed for the accumulation of trash, and tied.
- (f) Do not overfill the containers. The lids on green containers used for yard waste and black containers for residential services shall be able to close. Overfilled containers will not be emptied and customers will not receive service until the next scheduled service day.
- (g) Black and green residential containers will be allowed to be placed for collection within, but without obstructing, the right-of-way the night before and on the day of solid waste collection only. Containers must be stored off the right-of-way the remainder of the time.

Sec. 21-212. Disturbing solid waste containers refuse receptacles.

No person shall remove, handle, pick up or otherwise disturb the solid waste containers refuse receptacles or the contents thereof which have been properly placed for collection. This section shall not apply to the owner, occupant, lessee of residence, dwelling or other building so placing the solid waste refuse and container receptacle or to others whose legal duty it is to handle the containers receptacles or contents, or to those who have been issued a permit for such purpose. This section shall not restrict the authority of law enforcement officials to conduct a search of solid waste containers. refuse receptacles. It is unlawful for any person or business to dump or place solid waste in a solid waste container belonging to another person or upon any other premises without the consent of the owner of such container or premises.

Sec. 21-213. Use of landfill by persons other than city.

- (a) Use of the landfill by persons other than the city shall be in accordance with the use agreements between the city and all other entities. Use of the landfill shall be subject to the fees set forth in an annual resolution. Solid waste Refuse shall be

acceptable to the city and be deposited in strict accordance with all rules and regulations governing the city landfill.

- (b) City residents hauling non-business waste from their primary residence will not be charged if the waste is hauled in a vehicle no larger than a one-ton pickup truck, or equivalent size trailer. Fees will apply for special waste in accordance with the disposal fee resolution adopted by the city council annually.
- (c) Employees of the city in charge of maintaining the landfill are authorized to request of any person to produce proper registration of any vehicle, issued by the state, to certify that the vehicle is owned by a resident or nonresident of the city. Employees in charge of maintaining the landfill are further authorized to request any other suitable identification from operators or owners of vehicles to determine whether such person is a resident or nonresident.
- (d) Payment of landfill fees by private solid waste refuse-haulers and contractors shall be allowed by monthly billing after establishment of acceptable credit. Any account which is delinquent more than sixty (60) days shall be refused the right to dispose of any solid waste refuse at the city landfill until the account is paid in full.

Sec. 21-214. Collection by city exclusive.

- (a) It is unlawful for any person other than the city to engage in the business of collecting, removing and disposing of solid waste refuse within the jurisdiction of the city, or for any person other than the city, its agents or employees to do or perform any of the things herein required to be done or performed by the city, except:
 - (1) As provided in sections 21-215 and 21-203;
 - (2) For drop-box service on construction sites; ~~and~~
 - (3) Per a written agreement approved by the city council; and
 - (~~34~~) As provided by MCA 7-2-4736, preservation of existing garbage or solid waste service in the event of annexation.
- (b) The city administrator with the consent of the city council, may call for bids on any areas that may be opened for competitive bidding by private haulers.

Sec. 21-215. Special permits.

In the case of isolated premises or where reasonable access cannot be had by truck, solid waste refuse therefrom may, upon written special permission of the city, be collected, removed and disposed of in such manner as the city shall in and by such permit approve and direct.

Sec. 21-216. Supervision of disposal.

All matters relating to the collection, removal and disposal of solid waste refuse, unless specifically placed under the direction of the city/county board of health, shall be done and performed under the supervision, direction and control of the city administrator or designee, and in strict conformity with the provisions of this article and with any additional rules and regulations that may be made from time to time by the city administrator.

Sec. 21-217. Load security.

No person for himself or herself or on behalf of any other person shall operate a vehicle within the city or between the city and the city landfill disposal site transporting material or ~~solid waste refuse~~ of any kind or nature which is not fully secured.

"Unsecured loads" are defined as a load of any quantity of any material or ~~solid waste refuse~~ that is not fully tied, covered or enclosed in such a manner that material being transported cannot be spilled, blown, dropped or otherwise lost from the transporting vehicle. Any person violating this section on load security shall pay the uncovered load fee as designated by resolution. ~~be guilty of a misdemeanor, shall be issued a citation and notice to appear, shall be required to unload in a designated landfill area and shall pay a minimum fine of thirty-five dollars (\$35.00).~~

~~The maximum fine is as provided in section 1-110. Upon subsequent offenses by the same person, the offender will be subject to a penalty as provided for other violations of this article as provided in section 1-110. For the purposes of this section the solid waste superintendent, or designee(s), is authorized as the enforcement officer and is granted the authority to enforce the provisions of this section and issue citations.~~

A person operating a loaded vehicle on a public highway with an unsecured load shall also be subject to a misdemeanor as specified in Section 61-8-370, MCA.

Sec. 21-218. Additional residential collection and special pickups.

The city will collect cardboard placed next to a residential container per a published schedule by the Public Works Department. Residents shall not set cardboard out when it is raining. Cardboard must not be wet and must be free of food, oil stains, packing peanuts, plastic bags, and bubble wrap. Cardboard boxes shall be flattened except a large cardboard box may be used to place other smaller flattened cardboard boxes.

The city will collect extra and bulky solid waste from residential customers on an on-call basis. Extra solid waste includes items equivalent to a 32 gallon container or approximately 2 feet by 2 feet and will be charged per the annual rate resolution. Yard rubbish can also be collected as an on-call extra item. Yard rubbish should be securely tied in bundles not heavier than 75 pounds, no more than (4) feet in length, and no more than two (2) feet in diameter. Bulky solid waste includes items greater than 75 pounds or larger than a 32 gallon container or 2 feet by 2 feet size such as furniture, televisions, and mattresses.

Sec. 21-219. Outdoor dumping of solid waste prohibited.

Any deposit of solid waste upon the city right-of-way, city property or the premises or property of another without the express permission or consent of the city, owner, or occupant of such premises is forbidden and prohibited. A violation of this section is designated as a municipal infraction and punishable by civil penalties as specified in section 18-1304.

Sec. 21-220. Contaminated materials and asbestos.

Disposal of all contaminated material is regulated by the Landfill Acceptance Criteria for total and/or total toxicity characteristic leaching procedure (TCLP) concentration limits for the following parameters: petroleum hydrocarbons, total organic halogens (TOX), semi-volatile organics and heavy RCRA metals.

Disposal of asbestos containing material greater than 1% both friable and non-friable is regulated by the Montana DEQ Asbestos Control Program, EPA, OSHA, and landfill disposal requirements.

Secs. 21-22148—21-225. Reserved.

DIVISION 2. – COSTS

Sec. 21-226. Assessment against property; monthly billing authorized.

The cost of collecting and/or disposing of solid waste refuse, from the streets, alleys and private premises of the city shall be billed at the monthly rate established by this division to each customer on the monthly public works utilities water and wastewater billing statements.

Sec. 21-227. Costs borne proportionately.

Each property from which solid waste refuse is produced or collected shall, as far as practicable, bear its share of the expense of collecting and/or disposing of the solid waste refuse in proportion to the amount of solid waste refuse collected and/or disposal of and the frequency of collection.

Sec. 21-228. Cost estimate.

It is the duty of the city administrator to provide the council an estimate, as near as practicable, of the cost of collecting and disposing of solid waste refuse in the city.

Sec. 21-229. Annual determination of charges for services rendered.

The council shall hold a public hearing annually and pass and adopt a resolution setting the commercial and residential services collection and disposal rates, landfill fees and any other miscellaneous fees or charges deemed appropriate and necessary. The resolution shall list the fee schedules.

Sec. 21-230—233. Reserved.

Sec. 21-234. Hearing of objections; changes; final passage.

At the time set for hearings objections to the final passage of the resolution referred to in section 21-229, or at a time to which such meeting may be adjourned, the city council shall pass upon all objections and make such changes in the assessments as it shall deem necessary and proper after hearing such objections, and shall adopt such

resolution. Thereafter, the city clerk shall incorporate such changes in the list of charges as extended.

Secs. 21-235. Delinquent bills.

Bills shall become delinquent 25 days from the date of billing if not paid. If the bill is not paid within 40 days after the billing date, the solid waste service to the customer shall be discontinued after written notice is mailed to the customer until the delinquent assessed amount is paid. The city invokes the use of the procedures set forth under MCA 7-13-4108 for collection of delinquent assessed bills, which imparts the payment as a tax against the property involved and also permits the city to bring suit to collect payment of delinquent solid waste charges.

Secs. 21-235~~6~~—21-237. Reserved

Sec. 21-238. Refunds.

No refunds of charges collected under this division shall be made except in cases of obvious error or change of service.

Sec. 21-239. Residential lots involving off-street collection.

For each residential property where the collection is made from beyond the curb, sidewalk or alley area in which a documented medical necessity is obtained from the resident, the monthly charge shall be equal to the monthly residential service rate established under this division. For each residential property where collection is required to be made from beyond the curb, sidewalk or alley area due to the way in which the property was constructed, one hundred (100) percent shall be added to the residential rate established under this division.

Sec. 21-240. Solid waste Refuse requiring special handling.

Disposal of solid waste refuse of a kind for which other provision is not made shall be made pursuant to this section. Any solid waste refuse placed upon the alleys or streets which does not come within the provisions of this article may be removed therefrom at the expense of the owner of the property from which such solid waste refuse originates. The city may submit a bill to the persons liable for the removal of such refuse. If the amount is not paid within ten (10) days after the bill is submitted, then the charge shall be collected in the same manner as the collection of other solid waste refuse fees, as provided in this chapter.

Sec. 21-241. Removal of solid waste refuse at owner's expense.

Nothing contained in this article shall prevent the city council from requiring the owner or occupant of premises to remove therefrom the solid waste refuse or a portion thereof at his or her own expense, under the supervision and control of the city and adjusting the fee.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the _____ day of _____, 2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk