

ORDINANCE NO. 10-5514

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 21-201, 21-205, 21-207, 21-209, 21-211, 21-212, 21-213, 21-214, 21-216, 21-217, 21-226, 21-229, 21-234, 21-236, 21-238, and 21-240; UPDATING AND CLARIFYING SOLID WASTE REGULATIONS; AND PROVIDING FOR THE REPEAL OF SECTIONS 21-231, 21-232 and 21-233 AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

*Section 1.* That Section 21-201 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-201. Definitions.**

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

*Commercial* means all business, industrial, institutional or agricultural establishments and all other properties that do not meet the residential definition. ~~including transient quarters. Residential, consisting of more than one (1) single family unit receiving refuse collection and disposal service other than once a week collection from thirty two (32) gallon or smaller receptacles, are classified as commercial.~~ The City may allow multi-plex units to be classified as commercial at the owner's request.

*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 collection of refuse contained in either thirty-two (32) gallon or less receptacles or once-a-week automated collection of special receptacles provided by the city designed for use by one or more than one (1) families. Transient quarters, generally used as temporary residences, such as motels and hotels, are specifically excluded from the residential classification.

*Section 2.* That Section 21-205 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-205. Yard 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. All yard 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.

*Section 3.* That Section 21-207 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-207. Same--Number required.**

(a) *Residential properties.* When receptacles are not provided by the city, there shall be a sufficient number of receptacles to adequately hold the accumulation of garbage refuse for a period of seven (7) days.

(b) *Commercial properties.* There shall be sufficient receptacles to contain all refuse 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 contained the refuse generated.

*Section 4.* That Section 21-209 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-209. Same--Size of residential containers.**

When receptacles for refuse are provided by property owners, receptacles shall not be less than eighteen (18) inches nor more than twenty (20) inches in diameter and shall not exceed thirty-two (32) gallons in capacity nor be less than fifteen (15) gallons in capacity, and shall be of galvanized ~~iron~~ metal or of similar character, with convenient handles for carrying and shall be watertight with tight fitting covers. Plastic containers, receptacles, bags or sacks designed for the accumulating, storage and handling of refuse are also acceptable. Refuse placed in receptacles not meeting these specifications may or may not be collected ~~or not~~ at the option of the city.

*Section 5.* That Section 21-211 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-211. Preparation of refuse for collection.**

(a) Ashes to be collected shall not contain any hot coals or ashes and shall be placed in a proper container. The collectors are not required to collect hot ashes.

(b) Refuse resulting from contract ~~or hire~~ construction 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.

*Section 6.* That Section 21-212 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-212. Molesting Disturbing refuse receptacles.**

No person shall molest, remove, handle, pick or otherwise disturb the 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 refuse and receptacle or to others whose legal duty it is to handle the 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 refuse receptacles.

*Section 7.* That Section 21-213 of the Billings, Montana City Code be amended so that such section shall read as follows:

**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 annual Landfill Use Agreements between the City of Billings and other cities, towns, and counties within the City Of Billings service area. Use of the landfill shall be subject to Any person after payment of the fees in the manner set forth in this chapter. sections 21-229-21-234 shall be allowed to deposit refuse of any kind that is acceptable to the city within the confines of the city landfill; provided, that all such Rrefuse shall be acceptable to the City and be deposited in strict accordance with all rules and regulations governing the city landfill.

(b) Disposal of all building materials, tree limbs or other refuse, not hauled by a property owner producing such refuse or not picked up by the city, shall be subject to landfill fees as herein established. City of Billings 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 ¾ 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 ~~required in subsection (b)~~, by private 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 refuse at the city landfill until the account is paid in full.

*Section 8.* That Section 21-214 of the Billings, Montana City Code be amended so that such section shall read as follows:

**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 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) ~~For any commercial customer who was receiving service on July 1, 1989, from and as an established customer of a private hauler and who does not request and receive service from the city during the exemption period. This exception terminates five (5) years after the adoption of this Ordinance Number 89-4814. Upon termination of this exception, commercial customers who have not contacted the solid waste division concerning the establishment of city collection will be assessed a charge for collection of its refuse equal to the charge for a similar and comparable business receiving city collection. As provided by section 7-2-4736, MCA, 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.

*Section 9.* That Section 21-216 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-216. Supervision of disposal.**

All matters relating to the collection, removal and disposal of 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.

*Section 10.* That Section 21-217 of the Billings, Montana City Code be amended so that such section shall read as follows:

**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 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 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 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 as follows: of \$35.00.

Cars and station wagons . . . \$5.00  
 Pickup trucks and small trailers . . . 5.00  
 Up to one and one-half ton trucks . . . 20.00  
 Up to five tons single axle . . . 35.00  
 Over five tons tandem axle . . . 50.00  
 Semi-trailers . . . 50.00

Such amounts may be forfeited without the necessity of appearance in court. The maximum fine is as provided in section 1-110. Upon subsequent offenses by the same person, ~~no forfeiture will be allowed, an appearance in court is required and 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.

*Section 11.* That Section 21-226 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-226. Assessment against property.**

The cost of collecting and/or disposing of refuse, from the streets, alleys and private premises of the city shall ~~in all cases~~ be assessed wherever possible and taxed against the real estate from which such refuse is produced or collected.

*Section 12.* That Section 21-229 of the Billings, Montana City Code be amended so that such section shall read as follows:

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

~~On or before July first of each year the council shall provisionally pass a resolution setting the commercial and residential collection and disposal rates, and the landfill fees.~~

Not later than the first Monday regular council meeting in August of each year, the council shall finally hold a public hearing and pass and adopt a the resolution setting the commercial and residential collection and disposal rates, landfill fees, and any other miscellaneous fees or charges deemed appropriate and necessary. The resolution shall list the fee schedules, fixing the rates and fees as determined by the council. From the time of provisional passage until final passage and adoption the council may adjust rates and fees as deemed necessary.

*Section 13.* That Section 21-231 of the Billings, Montana City Code is hereby repealed and declared null and void and of no effect.

**Sec. 21-231. Provisional resolution.**

The city council shall pass provisionally a resolution levying and assessing refuse fees in accordance with the extensions made pursuant to section 21-230.

*Section 14.* That Section 21-232 of the Billings, Montana City Code is hereby repealed and declared null and void and of no effect.

**Sec. 21-232. Substance of resolution.**

The resolution required by section 21-231 shall give the number and description of each property to be assessed, the service provided to that property, the total amount of such assessment, the name of the owner if known, and the date when the city council will hear objections.

*Section 15.* That Section 21-233 of the Billings, Montana City Code is hereby repealed and declared null and void and of no effect.

**Sec. 21-233. Notice to lot owners.**

The council shall publish at least once in a newspaper of the city a notice to all property owners of the passage of the resolution described in sections 21-231 and 21-232, and the time and place for hearing objections to its final passage.

*Section 16.* That Section 21-234 of the Billings, Montana City Code be amended so that such section shall read as follows:

**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 21-231 ~~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 finally adopt such resolution. Thereafter, the city clerk shall incorporate such changes in the list of charges as extended.

*Section 17.* That section 21-236 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-236. Change in assessment.**

If the service for which an assessment was made changes, whether because of an exorbitant quantity of refuse, lack of sufficient number of receptacles, or a requested change in service by the property owner or occupier, and the assessment made against the property is no longer proper for the service provided, an additional assessment or a refund of a portion of the prior assessment as appropriate, will be made for the period beginning from the first day of the month following the date of change until the last day of the fiscal year for which the assessment is being changed. If there is an additional assessment, the additional amount will be billed by the city direct for the balance of the assessment period. The additional assessment shall be ~~done~~ due and payable upon billing.

*Section 18.* That section 21-238 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-238. Refunds.**

No refunds of charges collected under this division shall be made ~~on objections after the final passage of the resolution referred to in section 21-231,~~ except in cases of obvious error; or change of service as provided for in section 21-236.

*Section 19.* That section 21-240 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 21-240. Refuse requiring special handling.**

Disposal of refuse of a kind for which other provision is not made shall be made pursuant to this section. Any 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 refuse originates. The city shall 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 refuse fees, as provided in this chapter sections 21-234 and 21-235.

*Section 20.* EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

*Section 21.* REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

*Section 22.* 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.

*Section 23. CODIFICATION.* The provisions of this ordinance shall be included and incorporated in the Billings, Montana City Code as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

PASSED by the City Council on first reading this 24th day of May, 2010.

PASSED, ADOPTED and APPROVED on second reading this 14<sup>th</sup> day of June, 2010.



CITY OF BILLINGS

By Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

By Cari Martin  
City Clerk