

ORDINANCE NO. **BG2014 - 38**

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 20 (REFUSE COLLECTION) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO MAKE CHANGES RECOMMENDED BY WARREN COUNTY AND RENAME THE CHAPTER SOLID WASTE COLLECTION

WHEREAS, Warren County took over the solid waste franchise for the entire county including the City of Bowling Green several years ago; and,

WHEREAS, the City of Bowling Green needs to make several changes to the City's Code of Ordinances, Chapter 20 (Refuse Collection) to bring the chapter up to date with current practices and to rename the chapter to Solid Waste Collection; and,

WHEREAS, it is in the best interests of the City to amend Chapter 20 and to rename it Solid Waste Collection.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 20 (Refuse Collection) is hereby renamed "Solid Waste Collection" and is hereby amended as follows:

20-1 ~~[GARBAGE AND REFUSE]~~ SOLID WASTE DISPOSAL.

20-1.01 Definitions.

As used in this Chapter:

"Franchisee" shall mean the person, partnership or corporation who may then hold any rights or obligations regarding the collection of ~~[refuse or]~~ solid waste, residential recyclable material and residential yard waste under a written franchise agreement with ~~[the City]~~ Warren County.

"Private Scavenger" shall mean any person who, for hire, collects, removes or disposes of ~~refuse~~ solid waste, residential recyclable material and residential yard waste.

~~["Refuse" shall mean sweepings, cleanings, trash, rubbish, litter, garbage, industrial and~~

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~~domestic wastes; organic wastes or residue of animals sold as meat; fruit or other vegetable matter from kitchens, dining rooms, markets, or places dealing in the handling of meats, fowl, fruits, grain or vegetables; offal, animal excreta, the carcasses of animals; tree to shrub trimmings; dirt, wood, stone, brick, plaster, or materials resulting from the demolition, alteration or construction of buildings or structures; accumulated waste materials or substances which may become nuisances, some which are more particularly classified as follows:]~~

~~[a. "Prepared Garbage" shall mean waste materials from kitchens, dining rooms, and similar places, from which liquids have been drained and solid matter wrapped in paper.]~~

~~[b. "Raw Garbage" shall mean garbage not drained or wrapped.]~~

~~[c. "Trash" shall mean waste material containing no putrid matter or organic wastes.]~~

"Recoverable" or "Recyclable Material" shall mean that material which may have a current use, reuse or recycling potential which can be used, reused or recycled and which has been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not requiring subsequent separation and processing, but does not include material diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF). This term also does not include any container which contained or may have contained a hazardous substance.

"Residential Recyclable Material" shall mean recoverable or recyclable material separated from the waste stream by the resident and placed at the curb for collection or in the unstaffed drop-off containers.

"Residential Yard Waste" shall mean leaves, brush, grass clippings, shrub and tree pruning, and other vegetative matter resulting from residential landscape maintenance which is suitable for composting which has been diverted and/or separated from the solid waste stream by the resident and placed at the curb for collection.

"Solid Waste" shall mean any garbage, refuse, sludge and other discarded material,

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including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden), agricultural operations and farm community activities, but does not include those materials, including but not limited to sand, soil, rock, gravel or bridge debris extracted as part of a public road construction project, recovered material special wastes as designated by KRS 224.50-224.760, solid or dissolved material in domestic sewage, manure, corps, crop residue or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

"~~[Refuse]~~ Solid Waste Collection[s]" shall mean the gathering of [~~refuse~~] solid waste containers and their contents from the premises of improved property and loading contents into removal vehicles and returning containers to place where found after contents have been emptied~~[, for which the charge is made as provided for in Section 20-1.07].~~

"~~[Refuse]~~ Solid Waste Container" shall mean the ~~trash and garbage~~ solid waste containers referred to in this Chapter and shall meet the following specifications:

a. "~~[Trash]~~ Residential Solid Waste Container." Standard containers for the storage of [~~trash~~] solid waste shall be substantially made of metal or molded plastic, shall have a capacity of not less than ten (10) or more than thirty (30) gallons, and shall be equipped with at least two (2) carrying handles, with a tight-fitting metal or molded plastic cover, or as shall otherwise be prescribed by [~~the Board of Commissioners]~~ this Chapter or by ordinance of Warren County.

b. "Commercial and Industrial Solid Waste Containers." Containers for the storage of solid waste shall be substantially made of metal or molded plastic and shall be constructed and maintained in such a way to minimize the leaking or escape of fluid or solid waste or as shall otherwise

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~~be prescribed by this Chapter or by ordinance of Warren County. ["Garbage Container." Standard containers for the storage of garbage shall be substantially made of metal or molded plastic, leakproof, and watertight; shall have a capacity of approximately twenty (20) gallons, and shall be equipped with an adequate carrying bail and tight fitting metal or molded plastic cover.]~~

~~[e. "Trash Compactor Containers." Containers for the storage of trash and garbage compacted by a mechanical trash compaction unit shall be leakproof and watertight and shall have a capacity of not more than thirty (30) gallons.]~~

~~["Refuse] Solid Waste Disposal" shall mean the disposal of [refuse] solid waste in accordance with all applicable local, state and federal statutes, ordinances [rules] and regulations [promulgated by the Board of Commissioners].~~

~~["Refuse Removal] Solid Waste Transport" shall mean the hauling and transportation of [refuse] solid waste from point of collection to point of disposal in accordance with all applicable local, state and federal statutes, ordinances and regulations.~~

~~[20-1.02 Securing Bonds: Promulgation of Rules; Enforcement.]~~

~~[a. This Chapter shall inure to the security of the revenue bonds referred to in Section 20-1.07. No amendment, revision or repeal of this Chapter shall be effective except as herein contemplated so long as any of such revenue bonds are outstanding.]~~

~~[b. The Board of Commissioners shall promulgate and enforce any and all reasonable rules and regulations deemed necessary or proper to carry out the objects and purposes of this Chapter and for the health and welfare of the citizens of the City in respect of the collections, removal and disposal of refuse as defined in Section 20-1.01.]~~

~~[c. It shall be the duty of the Police Division to enforce the provisions of this Chapter against violations or infractions thereof.]~~

20-1.0[3]2 [City's] County's Responsibility; Private Collectors Prohibited.

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a. It shall be unlawful for any person, except ~~[the City]~~ Warren County's designated solid waste Franchisee and other persons authorized in Warren County ordinances and regulations~~[, and its franchisee]~~ to engage in or conduct the business of collection, removal or disposal of ~~[refuse]~~ solid waste within the corporate limits of the City.

b. It shall be unlawful for any person, except Warren County's designated recycling Franchisee to engage in or conduct the business of collecting residential recycling material within the corporate limits of the City.

c[b]. Private Scavengers, pushcart operators and private [garbage] solid waste collectors are hereby prohibited from engaging in the business of transporting or disposing of solid waste, residential recyclable material or residential yard waste [garbage or refuse containing organic wastes, putrid matter and wastes or excreta subject to putrefication].

~~[20-1.04 Prohibited, Special Collections: Charges; Authority to Deny Services.]~~

~~[a. The City shall not collect, remove or dispose of the following types of refuse: Raw garbage, offal, sewage, animal excreta, and the carcasses of animals, or material resulting from the demolition, repair, alteration or erection of buildings or structures, but for such types of refuse a flat charge of five (\$5.00) dollars shall be collected for each special service call made and to this charge shall be added such charges as will compensate the City for extra refuse volume or weight involved in the types of refuse as determined by the officer or employee of the City in charge of the landfill site.]~~

~~[b. The City shall have the right to deny refuse collection, removal or disposal service to any person whose refuse requirements are sufficiently abnormal or different in the determination of the Board of Commissioners or Health Officer of the City as to justify special handling in which case a special charge shall be made. This shall include those buildings or dwellings not readily accessible to refuse collectors, or in cases where refuse is not found in standard containers or all such users as require service more frequently than regularly scheduled.]~~

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~~[20-1.05— Distribution of Monthly Statements; Delinquency Cause for Cessation of Service.]~~

~~[The Municipal Utilities Board shall be charged with the duty of mailing a statement on or before the first day of each month to each person charged with refuse collection, removal or disposal during the preceding month, but failure to mail any statement for monthly charges shall not be grounds for avoiding payment. If the fee, rate or charge for any monthly service charge is not paid within fifteen (15) days after the same is due, the amount thereof shall then be delinquent and may be recovered by the City in any appropriate action. Upon the failure of any person receiving such service to pay for the same when due, the City may discontinue such service without notice.]~~

~~[20-1.06— Municipal Utilities Board to Collect Charges, Maintain Records; Annual Audit; Availability of Report to Public.]~~

~~[a.— The Municipal Utilities Board shall be collector of the charges imposed under the provisions of this Section and such Board shall keep proper records showing all collections made and received.]~~

~~[b.— All accounts shall be properly audited annually by a competent independent certified public accountant, and the report thereof shall be open for inspection at all times to any taxpayer, or citizen of the City or any person receiving the service under the provisions of this Section, or any holder of bonds which by their terms are payable from the revenues under this Section, or anyone acting for and on behalf of such taxpayer, citizen or bondholder.]~~

~~[c.— All collections and revenues made and received from the City's garbage and refuse disposal system shall be deposited each day in either the American National Bank and Trust Company, the Citizens National Bank or the Bowling Green Bank and Trust Company, all of Bowling Green, Kentucky, and the deposits shall be credited to a special account designated as City of Bowling Green Sanitation Division.]~~

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~~[d. At least once each year the Sanitation Division of the City shall have a certified public accountant make a financial audit of the financial affairs and records of that division and the City's entire garbage and refuse disposal system. This audit, signed by the accountant, shall be filed with each member of the Board of Commissioners and the City Manager as soon as it is completed.]~~

~~[e. All surplus funds acquired from the operations of the City's Sanitation Division and the City's garbage and refuse disposal system over and above the expenses of the operation, the requirements for the retirement and payment of all outstanding sanitation revenue bonds, notes and obligations and the leasing or purchasing of all necessary equipment, shall be paid annually into the general fund of the City to reduce the tax burden of its citizens.]~~

~~[20-1.07— Schedule of Fees:]~~

~~[In order that costs will be distributed as equitably as possible among all citizens of the City on the basis of service requirements and in order that the revenue produced therefrom is sufficient to meet all obligations involved in rendering refuse service to the public, there shall be, and there hereby is established, a schedule of fees, rates and charges and surcharges for refuse collection, removal and disposal as follows:]~~

~~[a. Prepared Garbage and Trash Only:]~~

~~[1. Residences, single or multi family, general classification, per family unit:]~~

| <del>[Collection</del> | <del>_____</del>            |                  | <del>[Rate]</del>     |                       |                     |
|------------------------|-----------------------------|------------------|-----------------------|-----------------------|---------------------|
| <del>[Period</del>     | <del>[Dates</del>           | <del>_____</del> | <del>[Per Month</del> | <del>[Surcharge</del> | <del>[Total]</del>  |
| <del>[Weekly</del>     | <del>8/1/94 - 7/31/95</del> | <del>_____</del> | <del>\$15.56</del>    | <del>\$1.56</del>     | <del>\$17.12]</del> |

~~[2. The following rates are for residences where the head of the household or the spouse of the head of the household is sixty five (65) years of age or over or is receiving benefits under the Federal Social Security Act by reason of his or her total physical or mental disability. In order to qualify for this reduced rate the customer shall be required to make application therefore and furnish such evidence as the Bowling Green Municipal Utilities may prescribe by regulations per family~~

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unit:}]

| <u>Collection</u> | <u>Rate</u>                 |                    |                   |                    |
|-------------------|-----------------------------|--------------------|-------------------|--------------------|
| <u>Period</u>     | <u>Dates</u>                | <u>Per Month</u>   | <u>Surcharge</u>  | <u>Total</u>       |
| <del>Weekly</del> | <del>8/1/94 - 7/31/95</del> | <del>\$ 9.31</del> | <del>\$0.93</del> | <del>\$10.24</del> |

[b. Commercial, Industrial and Governmental Rates:]

[1. ~~For 20 to 30 Gallon Containers. One pick up per week. Containers per week.~~]

[(a) ~~1 to 3 containers:~~]

| <u>Collection</u> | <u>Rate</u>                 |                    |                   |                    |
|-------------------|-----------------------------|--------------------|-------------------|--------------------|
| <u>Period</u>     | <u>Dates</u>                | <u>Per Month</u>   | <u>Surcharge</u>  | <u>Total</u>       |
| <del>Weekly</del> | <del>8/1/94 - 7/31/95</del> | <del>\$39.91</del> | <del>\$3.99</del> | <del>\$43.90</del> |

[That in the event the customer requires and receives more than one pick-up per week, the above-stated b., 1. charge shall be increased by a like amount for each additional pick-up.]

[2. ~~Dumpster Container Charges. Any commercial, industrial or governmental establishment or multi-family dwelling elected to deposit its refuse in a dumpster container shall be charged as follows:~~]

| <u>Collection</u> | <u>Rate</u>                 |                   |                   |                    |
|-------------------|-----------------------------|-------------------|-------------------|--------------------|
| <u>Period</u>     | <u>Dates</u>                | <u>Per Month</u>  | <u>Surcharge</u>  | <u>Total</u>       |
| <del>Weekly</del> | <del>8/1/94 - 7/31/95</del> | <del>\$7.82</del> | <del>\$0.78</del> | <del>\$ 8.60</del> |

[All dumpster containers shall be picked up at least once per week. The franchisee shall have dumpster containers available for rental with the monthly rental rate charged for such containers being reflective of the purchase price of the containers and the cost of maintaining them.]

[3. ~~Beginning August 1, 1991, and on each August 1st thereafter, the refuse collection rates for the twelve month period beginning on such August 1st shall be established in the manner hereinafter provided.~~]

[No later than April 1, 1991, and no later than each June 1st thereafter, the City Manager shall file with the City Clerk a certificate setting forth the Consumer Price Index for the



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~~month of December immediately preceding such June 1st and the corresponding Consumer Price Index for the month of December 1982, and the percentage increase or decrease in the Consumer Price Index between the two dates. The certificate shall also set forth the proposed refuse rates for the following August 1st through July 31st in order for the rates to be equivalent in purchasing power to the December 1982 rates. The City Clerk shall deliver copies of the certificate to the members of the City Commission and the rates shall become effective as of June 1st following the filing of the certificate unless the City Commission ordains otherwise. When the rates have become effective the City Clerk shall see to it that the City Code is revised to reflect the new rates. Any proposed rate adjustment based on the Consumer Price Index as outlined in this section is to be reflected in the based rate per month only. The surcharge rate on the base rates will remain at ten percent (10%) and the amount of the surcharge will increase as the base rates increase.]~~

~~[The Consumer Price Index that shall be utilized for this purpose shall be the "Consumer Price Index for all Urban Consumers (CPI-U), Table 1, 1967=100, Unadjusted Index for 'Other Utilities and Public Services' published by the United States Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212", which reflects that this index for December 1982 was 206.6.]~~

~~[20-1.08 Revision of Schedule Authorized and Required Under Certain Circumstances:]~~

~~[The Board of Commissioners shall have the right and recognizes its obligation to revise the schedule of rates provided in Section 20-1.07 and so adjust them that costs will be distributed as equitably as possible among all citizens of the City on the basis of the services and the requirements of Ordinance Number 378. At no time, however, shall rates be continued which are disclosed to producing less revenue than is required to meet all obligations and costs involved in rendering refuse service to the public, and for the payment of the interest on the bonds provided for in Ordinance Number 378 and for the necessary sinking fund to be promptly and at all times pay and discharge such~~

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bonds.]

20-1.0[9]3 Removal of Outside Yard [~~Refuse~~] Solid Waste; Location of Normal Deposits[; ~~Uniform Charges~~].

a. The [~~Sanitation Division~~] Bowling Green Residential Franchisee, as approved by Warren County, shall be responsible for collecting, removing and disposing from each residential unit all residential yard waste separated from the waste stream by the resident and placed at the curb for collection in suitable containers as set out in Warren County regulations. Brush and tree limbs must be cut to lengths no longer than five (5') feet and no more than six (6") inches in diameter and bundled by the resident and placed at the curb for collection [~~of all trash, trimmings, brush, leaves, empty boxes and other normal outside and yard refuse for the minimum monthly charge hereinbefore set forth provided same is reasonably boxed, baled, containerized or otherwise made available at the reasonable and normal truck loading point~~].

b. Residential solid waste [~~Other normal garbage and household refuse~~] shall be removed from residential solid waste containers located at reasonably accessible points as set out in Warren County regulations and the Warren County franchise agreement [~~from the rear of the dwelling~~].

~~[b. All users both public and private of the collection facilities, landfill facilities or other disposal facilities of the Sanitation Division shall pay for their services and use of the facilities in accordance with other rates established by the City. Charges for services and use of the facilities to governmental agencies shall be equivalent to charges for similar services and use by nongovernmental agencies.]~~

~~[e. Any person who wishes to use the sanitary landfill and transfer station facilities of the Sanitation Division to dump or otherwise dispose of trash, garbage or other matter and debris permitted to be disposed of thereat shall pay for the use of the facilities. Such costs shall include a surcharge amount as specified hereinbelow. The rate for the use of the sanitary landfill shall be ten dollars~~

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~~(\$10.00) per unit through February 28, 1991. Beginning March 1, 1991, the rate shall be eleven dollars (\$11.00) per unit. The increase of one dollar (\$1.00) per unit is the designated surcharge. The rate for the use of the transfer station facilities shall be fourteen dollars and seventy-five cents (\$14.75) per unit through February 28, 1991. Beginning March 1, 1991, the rates shall be sixteen dollars and twenty-two cents (\$16.22) per unit. The increase of one dollar and forty-seven cents (\$1.47) per unit is the designated surcharge. "Unit" shall be defined as five hundred (500) pounds of the refuse or one cubic yard of the refuse, whichever is less. Any part of a unit shall constitute a full unit for purposes of determining the rate for use of the facilities.]~~

~~[d. — Any person disposing more than four (4) cubic yards of material at a time shall present evidence that the material has been weighed at the City's Transfer station scales or on other scales approved by the Commonwealth of Kentucky. There shall be no charge for the disposal of rock and fill dirt. The fees established hereinabove may be waived by the City in conjunction with a community-wide clean-up effort.]~~

~~[e. — All surcharge collected by and on behalf of the City of Bowling Green by Bowling Green Municipal Utilities, Monarch Environmental, Inc. and by the City are held in separate and segregated accounts of the City of Bowling Green pending use of these funds for authorized purposes.]~~

~~[20-1.10 Property Owners Responsible for Payment of Bills.]~~

~~[The owners of real property in the City limits are responsible for the payment of the sanitation bills rendered by the City or the Water and Sewer Commission for services of the City or its franchisee in the hauling of refuse, solid waste, trash and garbage from the premises.]~~

20-1.[11]04 Specific Rules and Regulations.

~~[a. — Accumulation of Refuse. It shall be unlawful for any person to cause or to permit the accumulation of refuse in, about or upon premises owned, occupied, or used by them, when and if,~~

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~~such accumulation is unsightly, unsanitary, or hazardous to the property, life, health, safety or welfare of the public.]~~

~~a[b]. Maintaining Dump Ground. It shall be unlawful to deliver [refuse] solid waste to or upon private property or to maintain a dump ground, either public or private for the deposit of [garbage] solid waste of any kind.~~

~~b[e]. Disposal of [~~Trash~~] Solid Waste. It shall be unlawful for any person to dispose of [~~trash~~] solid waste within the corporate limits of the City or elsewhere, except at [~~the~~] a properly permitted landfill site.~~

~~c. Solid Waste Containers. It shall be unlawful to place residential solid waste containers in the paved portion of any street, right-of-way or upon any sidewalk, and it is further unlawful to block access to solid waste containers.~~

~~[d. Scattering Garbage, Etc. It shall be unlawful for any person to throw, place, or scatter any garbage, rubbish, trash, or other refuse over or upon any premises, street or alley, either public or private, or adjacent thereto, and either with or without the intent to later remove or burn, or to permit from the accumulation of refuse, any premises owned, occupied or controlled by any such person to become or remain offensive, unsanitary, unsightly, unsafe to public health or hazardous from fire.]~~

~~[e. Trash and Garbage Containers. It shall be unlawful for any person to store or permit the accumulation of refuse on or about their premises, or the premises occupied by them, unless such refuse is kept separately in standard trash and garbage containers as defined in Section 20-1.01.]~~

~~[f. Containers Prerequisite to Removal of Refuse. It shall be unlawful for any City employee to collect or remove, at City expense, any refuse from the premises of any person or tenant thereof, unless such premises are equipped with standard containers referred to in paragraph e. and unless such refuse is kept stored in such containers.]~~

~~[g. Raw Garbage in Refuse Containers Prohibited. It shall be unlawful for any person to~~

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~~deposit or store garbage in refuse containers unless such garbage has been prepared for collection, removal, and disposal and complies with the definition of "prepared garbage" as defined in Section 20-1.01.]~~

~~[h. Dumpster Containers. All dumpster containers, whether front or rear loading, shall be approved by the City and subject to inspection by the Health Department.]~~

20-1.[12]05 Penalties for Violations.

Any person violating any of the provisions of this Chapter, or failing or refusing to abide by and comply with the rules or regulations promulgated to effectuate the provisions of this Chapter shall be guilty of a violation and upon conviction shall be punished by a penalty and fine not to exceed the maximum penalty and fine authorized by law ~~[be fined not less than five (\$5.00) dollars or more than fifty (\$50.00) dollars and costs]~~. Each succeeding day a violation of this Chapter exists shall constitute a new and separate offense.

2. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

3. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

4. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on December 2, 2014, and given final reading on December 16, 2014, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

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ADOPTED: December 16, 2014

APPROVED: Bruce Wilkerson  
Mayor, Chairman of Board of Commissioners

ATTEST: Kate Schaller  
City Clerk

SPONSORED BY: Kevin D. DeFebbo, City Manager, 11/24/2014, 11:50 a.m.