



CITY OF WASHINGTON, ILLINOIS

City Council Agenda Communication

Meeting Date: May 18, 2020

Prepared By: Ray Forsythe, City Administrator; Derek Schryer, City Attorney

Agenda Item: Proposed Code Amendment: Chapter 51 entitled "Garbage & Refuse"

Explanation: During the transition to PDC as the City's residential waste contractor, City staff identified numerous issues with Chapter 51 of the City Code (Garbage and Refuse). City staff believes that Chapter 51 has not been systematically reviewed for decades. There have also been several administrative processes that have developed outside the framework of Chapter 51. For example, the City has granted numerous waivers of residential services to owners of local businesses.

The attached ordinance amends Chapter 51 in its entirety to create comprehensive rules for garbage and refuse. The amended Chapter 51 designates the then-existing Waste and Refuse Contractor (currently PDC) as the mandatory and exclusive residential service to the residents within the city limits of Washington. Residents owning or occupying a residential unit must use the Waste and Refuse Contractor unless the resident owns a Washington based business and affirmatively opts out of receiving services at his or her residential unit. The amended Chapter 51 incorporates by reference the provisions of the then-existing Waste and Refuse Contract and defines key concepts such as the preparation of refuse, requirements of receptacles, placement of receptacles, and contents for pick-up for residents to use the residential service. Requirements for non-residential receptacles, depositing, and the storage of refuse were also added to Chapter 51. The existing rules regarding the transportation of refuse remain in Chapter 51.

Finally, the ordinance designates a minimal penalty for individuals that violate the provisions of the Chapter.

Fiscal Impact: Potential revenue generated from the penalties will be put into the Miscellaneous Revenue Account: 100-10-380-9000

Recommendation/

Committee Discussion Summary: Public Works Committee reviewed at their May 4, 2020 Meeting and Recommended approval and further discussion at the Committee of the Whole on May 11, 2020; The Committee of the Whole discussed the Amendment at the May 11th meeting and recommended the Amendment move to the City Council Meeting on May 18th for First Reading.

Action Requested: Approval of the Amendment.

Additional Documentation: Ordinance amending Chapter 51 of the Municipal Code pertaining to garbage and refuse.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 51
OF THE MUNICIPAL CODE PERTAINING TO GARBAGE AND REFUSE**

WHEREAS, the City of Washington, Illinois (“City”) is a home rule municipality in accordance with the Constitution of the State of Illinois and as such, has the authority to create this Ordinance;

WHEREAS, the Municipal Code of the City of Washington (the “Code”) permits the City Council to amend the Code from time to time; and

WHEREAS, the City is authorized under and pursuant to Section 5/11-19-5 of Chapter 65 of the Illinois Compiled Statutes, Municipal Code, to adopt this Ordinance, as it permits a municipality to provide the method or methods as provided by the corporate authorities for the disposition of garbage, refuse and ashes. Furthermore, said Section provides that “[a]ny municipality may provide by ordinance that such method or methods shall be the exclusive method or methods for the disposition of garbage, refuse and ashes to be allowed within that municipality.”; and

WHEREAS, the City Council has determined that it is necessary and in the best interest of the residents of the City and the City itself to amend Chapter 51 of the Code to amend the exclusive method for the disposition of garbage, refuse and ashes and other pertinent administrative provisions related to the disposition of such materials.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Washington, Tazewell County, Illinois, as follows:

SECTION 1: The recitals set forth above are incorporated herein.

SECTION 2: Chapter 51 of the City of Washington’s Code is hereby amended by striking Chapter 51 in its entirety and substituting it so it shall read solely as follows:

General Provision

§51.01 DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a difference meaning:

ASHES. Residue from fires used for cooking, recreational fires, or heating buildings

BRUSH. Trimmings from shrubs, trees or other woody plants.

BULKY WASTE. Individual items of furniture, equipment or machinery or parts thereof, including, but not limited to the following: auto parts, tires and wheels, mechanical equipment, stoves, refrigerators, furniture pieces, individual items which but for their weight would constitute rubbish, individual items of construction and demolition waste, freezers, clothes washers, clothes dryers, dishwashers, trash compactors, water heaters, furnaces, carpeting, bed mattresses, bed box springs, lawn mowers, etc.

COMMERCIAL BUSINESS OWNER. A resident that occupies a residential unit within the City limits and owns at least thirty-three and 33/100 percent (33.33%) of a commercial business located within the city limits of Washington, which business also has a contract with the then-existing Waste and Refuse Contractor.

CONSTRUCTION OR DEMOLITION WASTE. Any lumber, plywood, paneling, plastic board, roofing scraps, sheeting scraps, plastic, glass, concrete, rubble, conduit, pipe, wire, or other wastes generated from the construction, remodeling, repair or demolition of the building, dwelling, structure, or portion thereof and includes bulky waste.

CURBSIDE RECYCLING PROGRAM. That program, together with all applicable rules and regulations, developed by the Waste and Refuse Contractor, for the regular curbside collection of mixed recyclable material from all eligible residential units within the City limits.

GARBAGE. Wastes resulting from the handling, preparation, cooking, and consumption of food; wastes from the handling, storage, and sale of produce.

LANDSCAPE WASTE. Leaves, yard trimmings, garden waste, grass, grass clippings, turf, sod, and soil that may or not be eligible for collection pursuant to the Waste and Refuse Contract.

OTHER WASTE. Any item not specifically otherwise enumerated in the definition section.

PERSON. The owner, occupant, or lessee of any property and a firm, corporation, or entity of any kind.

RECYCLABLE MATERIAL. Containers and mixed paper products identified from time to time by the Waste and Refuse Contractor as acceptable for collection and disposal and pursuant to the Waste and Refuse Contract curbside recycling program. The Waste and Refuse Contractor shall make the list of acceptable recyclable material easily accessible and available to the residents of the City.

REFUSE. Garbage, rubbish, ashes, landscape waste, brush, construction and demolition wastes, and other wastes.

REFUSE COLLECTION AND DISPOSAL SERVICE. The combined collection and disposal of refuse and recyclable material.

RESIDENTIAL UNIT. A unit, as defined in the Waste and Refuse Contract, that is eligible for weekly residential refuse collection and disposal service. A residential unit shall not include any vacant lot in an area zoned as residential.

RUBBISH. Combustibles such as paper, cardboard cartons, wood, boxes, excelsior, plastic, rags, cloth, bedding, leather, rubber, or non-combustibles such as metal, tin cans, metal foil, dirt, stone, bricks, ceramics, crockery, glass, bottles, or combinations thereof.

WASTE AND REFUSE COLLECTOR. An employee under the direction and supervision of the person, firm, corporation, or entity which is serving as the Waste and Refuse Contractor.

WASTE AND REFUSE CONTRACT. The contract between the City and the Waste and Refuse Contractor for refuse collection and disposal service to residential units within the City limits.

WASTE AND REFUSE CONTRACTOR. The person, firm, corporation, or entity which is providing the refuse collection and disposal service to the residential units located in the City pursuant to the Waste and Refuse Contract.

Waste Collection and Disposal Service, Removal, and Disposal

§ 51.02 RESIDENTIAL UNIT WASTE COLLECTION AND DISPOSAL SERVICE

- (A) Service Provided. Pursuant to the Illinois Municipal Code and as a home rule municipality, the City has the authority to contract with a private person, firm, corporation, or entity for a refuse collection and disposal service, which includes a curbside recycling program. Furthermore, the City has the authority to provide the exclusive method of the disposition of garbage, refuse, and ashes. As such, the City shall provide, by its Waste and Refuse Contractor, a refuse collection and disposal service and curbside recycling program to persons owning or occupying a residential unit within the City limits, in the manner and to the extent provided for in this chapter and in the Waste and Refuse Contract. The delivery of a refuse collection and disposal service by the Waste and Refuse Contractor is the mandatory and exclusive service, and owners or occupants of any residential unit shall not have the right to refuse or opt out of such service, except as provided for in §51.02(D) below.
- (B) Authority. Whenever directed by the provisions of this chapter, the City Administrator shall carry out such directions and perform such duties as provided thereby, unless the Mayor and City Council shall designate some other officer to perform such duties. All matters relating to or affecting the accumulation, collection, removal, or disposal of waste, unless specifically otherwise assigned, shall be subject to and under the supervision of the City Administrator.

(C) Service Fee. A service fee for weekly collection of refuse collection and disposal services and curbside recycling program, as applicable, is imposed upon the owner and occupant of a residential unit in the terms and amounts set forth in the Waste and Refuse Contract.

(D) Opt Out of Service to a Residential Unit. A Commercial Business Owner may opt out from service by the Waste and Refuse Contractor at the Commercial Business Owner's residential unit in accordance with this Paragraph. A Commercial Business Owner's opt out from receiving such service shall only apply to one residential unit.

(1) A Commercial Business Owner must execute an affidavit attesting to his or her eligibility to opt out from receiving services at a residential unit from the Waste and Refuse Contractor. The affidavit must attest that the Commercial Business Owner owns or occupies a residential unit and owns, at a minimum, thirty-three and 33/100 percent (33.33%) of a commercial business within the City limits, which also subscribes to the services of the Waste and Refuse Contractor. The Commercial Business Owner must attach evidence of the following with the affidavit: (1) the affiant owns or occupies a residential unit within the City limits; (2) the affiant owns an interest not less than thirty-three and 33/100 percent (33.33%) in a commercial business located within the City limits; and (3) the commercial business subscribes to the Waste and Refuse Contractor's services.

(2) A Commercial Business Owner that has previously been allowed the opportunity to opt out of refuse collection and disposal services prior to April 1, 2020, must reaffirm his or her eligibility to opt out as provided for in Section §51.02(D)(1).

(3) A Commercial Business Owner's opt out election shall expire on December 31 of the year the affidavit is submitted in accordance with Section §51.02(D)(1). A Commercial Business Owner may elect to renew an opt out election by submitting the information required by Section §51.02(D)(1). The failure to renew by January 31 shall cause the Commercial Business Owner to be ineligible for an opt out until January 1 of the following year.

(4) A Commercial Business Owner who has an opt out election under Section §51.02(D)(1) in effect shall notify the designated city official within thirty (30) days of the date where the Commercial Business Owner no longer qualifies as a Commercial Business Owner under this chapter

(5) The city official designated to oversee the opt out provisions of this chapter shall be the City Administrator.

- (E) Rules and Regulations. The definitions, rules, regulations, obligations, etc., as set forth in the Waste and Refuse Contract, are hereby incorporated herein as if fully set forth within this Section.

§ 51.03 REQUIREMENTS FOR UTILIZATION OF THE REFUSE COLLECTION AND DISPOSAL SERVICE

(A) Any owner or occupant of a residential unit utilizing the refuse collection and disposal service and curbside recycling program provided by the Waste and Refuse Contractor must abide by the rules, regulations, and requirements set forth in the Waste and Refuse Contract. Failure to abide by the requirements will subject the occupant or property owner to penalties as set forth in Section 51.99.

(B) In addition to the requirements set forth in the Waste and Refuse Contract, an owner or occupant of a residential unit must abide by requirements as provided for in this Section.

(1) Preparation of Recyclable Material, Garbage, Rubbish, Construction and Demolition Wastes, and Ashes.

(a) All garbage shall be thoroughly drained of all liquid and recyclable containers shall be emptied and rinsed.

(b) Any sharp object constituting rubbish shall be securely wrapped in paper.

(c) Ashes shall be extinguished so that no hot coal or fire remains.

(d) No ashes shall be mixed with garbage, rubbish, construction or demolition waste, or brush.

(e) Needles, sharps, or lancets shall be securely placed in a puncture proof container.

(2) Receptacles.

(a) Standards. All garbage, rubbish, ashes, and individual items of construction and demolition waste, after being prepared in the manner required by Section 51.03(B)(1), shall be placed in a refuse receptacle or recycling receptacle meeting the requirements set forth in the Waste and Refuse Contract and shall be placed for collection at the time and location provided for in Section 51.03(B)(3)(a).

(3) Placement of Receptacles and Contents for Pick-Up.

- (a) Time and Location. It shall be unlawful for any person to place waste in front of any residential unit, curb line, curb of a public street or alley, or front line extended of said residential unit, even though in a proper receptacle, sooner than forty eight (48) hours prior to or later than forty-eight (48) hours after the scheduled pick-up time by the Waste and Refuse Contractor. Receptacles, individual items constituting rubbish, individual items constituting construction or demolition wastes, bulky wastes, and brush on the curb line behind the curb of a public street or alley, must be placed in a manner so that the contents will not be scattered by the wind or animals.
- (b) Quantities. The weekly refuse collection and disposal service shall include the quantity and weight limits of receptacles, waste, rubbish, construction or demolition waste, bulk wastes, brush, landscape waste, or recycled materials as permitted by the Waste and Refuse Contract.

§51.04 REQUIREMENTS FOR REFUSE RECEPTABLES

- (A) Owners Obligation and Specifications. The owners of business, commercial, manufacturing, industrial, or other residential property (which are not a residential unit) in which refuse is accumulated for disposal shall provide or cause to be provided refuse receptacles meeting the following requirements and shall collect said refuse at least on a weekly basis and shall further provide for private refuse collection of the contents thereof.
 - (1) Refuse bins. Referred to from time to time in this chapter as “dumpsters” first placed in service after July 1, 2020 shall meet or exceed the most current standards, rules and regulations of the United States Consumer Product Safety Commission. All other refuse bins (being refuse bins in service prior to July 1, 2020) shall be securely fastened with safety chains to permanently fixed objects to prevent them from tipping over.
 - (2) Roll-Off Boxes. Open metal attachable containers commonly known and referred to herein as “roll-off boxes,” provided, however, such roll-off boxes shall not be used for the storage or disposal of garbage, rubbish or other refuse, the accumulation of which in such an open container would constitute a nuisance, cause an offensive odor, or be difficult because the contents would be scattered by the wind.
 - (3) Exceptions. When the use of dumpster or roll-off box would otherwise be required and where conditions exist which would make the use of such a device impossible or impractical, the City Administrator may permit the use of other receptacles. Any person desiring to utilize a receptacle other than a dumpster or roll-off box where the use of one would otherwise be required shall submit a written application to the City Administrator specifying the nature of the impossibility or impracticality and

describing the proposed type of receptacle. The City Administrator may condition his approval in writing as necessary to provide a safe and sanitary refuse disposal procedure.

(B) Location.

(1) Residential Units.

- (a) Except when lawfully set out for collection, no accumulated refuse receptacle, refuse container, recycling receptable, or recycling container shall be stored in the front yard or in the front or side yard of any corner lot.

Refuse and recycling material not in receptacles shall be neatly stacked and screened from view until lawfully set out for collection.

(2) Other Uses or Occupancies.

- (a) Dumpsters. Dumpsters shall not be permitted in the front yard or in the front or side yard on corner lots, and in business and multiple family zoning districts, dumpsters shall not be permitted in the front yard, corner side yard, or side yards.

- (b) Roll-Off Boxes. Roll-off boxes shall not be permitted in a front yard or on a dedicated street right-of-way, provided, however, the City Administrator may issue temporary permission for a roll-off box to be located on the public right-of-way, or the City Administrator may issue temporary permission for a roll-off box to be placed in a required front or side yard.

- (c) Other Receptacles. Other receptacles shall be placed and stored as specified in the permit received from the City Administrator.

- (d) Exceptions. Any person desiring to locate a dumpster or roll-off box on the dedicated public right-of-way or in a yard where the placement of such a receptacle would otherwise be prohibited, other than temporarily, may submit a request to the City Administrator specifying the proposed location, justifying the location, and detailing how the receptacle will be screened so as to shelter and protect surrounding properties to the same or a greater extent than if the receptacle was located in a yard where it would otherwise be permitted.

- (e) Pad. Dumpsters and roll-off boxes shall be located on a concrete or asphalt pad.

(C) Commercial Business Owners Eligible to Opt Out. Commercial Business Owners who are eligible to opt out of residential refuse collection and disposal services at his or her residential unit, as provided for in Section 51.02(D), may contract with any refuse collection and disposal service for his or her commercial business. Such commercial business is not required to contract with the then-existing Waste and Refuse Contractor.

(D) Penalties. Failure to abide by the requirements will subject the occupant or property owner to penalties as set forth in Section 51.99.

§51.05 DEPOSITING, STORAGE, AND TRANSPORTATION OF REFUSE

(A) Depositing or Permitting Refuse to Remain. It shall be unlawful for any person to deposit, bury, throw, place, or cause to be deposited, buried, thrown, or placed any refuse within the corporate limits of the City. It shall be unlawful for any property owner, lessee, or tenant to permit any refuse placed, deposited, buried, or thrown on any property owned, leased, used, occupied, or in which such person otherwise has an interest to remain on such property after such material has been placed, deposited, buried, or thrown thereon.

(B) Storage or Disposal of Refuse.

(1) Burning Prohibited. It shall be unlawful for any person, firm, corporation, or entity to burn or set fire to or cause to be burned or cause to set fire to any refuse within the City of Washington unless such material shall be burned in an incinerator or furnace properly constructed for such purpose and approved by the Environmental Protection Agency. The burning restrictions set forth in this Paragraph do not apply to the burning of landscape waste which is governed by Chapter 93.

(2) Requirements as to the Storage of Food. It shall be unlawful for any person, firm, corporation, or entity to store human or animal food or feed within the City limits in other than a rat-free and rat-proof container, compartment or building.

(3) Refuse or Recyclable Material Placed out for Collection in Violation of this Chapter. It shall be unlawful for any person to place out for collection or cause to be placed out for collection any refuse or recyclable material within the corporate limits of the City in a manner violating any provision of this chapter.

(4) Refuse or Recyclable Material Placed out for Collection on Street Medians. It shall be unlawful for any person to place out for collection or cause to be placed out for collection any refuse or recyclable material on any street median within the City of Washington.

- (5) Storage of Refuse and Recyclable Material Between Collection Dates. It shall be unlawful for any person, property owner, or lessee to permit refuse or recyclable material to be placed on such person's property other than in an approved receptacle, except bulky trash which must be neatly stacked in the rear yard in a manner not creating a nuisance to adjoining property owners or the public.

(C) Transporting Garbage or Loose Refuse; Equipment Requirements.

- (1) No person shall transport loose refuse, or cause loose refuse to be transported, over the streets or other public ways in the City unless such loose refuse being transported is entirely and securely covered and meeting the requirements of the United States Environmental Protection Agency, State of Illinois, County of Tazewell, and City.
- (2) Refuse shall not be transported over or along the streets of the City or other public property thereof except in a leak-proof compaction type body. Such equipment shall be cleaned frequently enough to prevent nuisance and insect breeding, and shall be maintained in good condition, repair, and appearance.
- (3) A refuse and waste collector shall immediately clean up any waste or refuse that he or she may have caused to spill on private premises, parkways, streets, alleys, or other public places, in a neat and workmanlike manner, and shall replace, at its expense, containers or other property which may be seriously damaged by carelessness of the refuse and waste collector.

- (D) Storage of Lumber, Boxes, Barrels, Etc. It shall be unlawful for any person, firm, corporation, or entity to store any lumber, boxes, barrels, bottles, cans, containers, or similar materials evenly piled or stacked on open racks that are elevated not less than 18 inches above the ground, so that such materials will not afford a harborage for rats.

- (E) Demolition Refuse. All refuse resulting from the demolition of any building must be removed from the building site within seven (7) days following demolition.

- (F) Prohibited Refuse. No person shall place out for collection nor shall the Waste and Refuse Contractor collect any refuse prohibited by state or federal law from entering a landfill.

§51.99 PENALTY.

Any person who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall be fined not less than twenty-five (\$25.00) nor more than five hundred dollars (\$500.00) for each offence. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 3: If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS _____ day of _____, 2020.

AYES: _____

NAYS: _____

MAYOR

ATTEST:

CITY CLERK