

SEC 10-1 Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

- (a) "Private Scavenger" means one who for hire, collects, removes or disposes of solid waste.
- (b) "Solid Waste Collection" means the gathering of solid waste containers and their contents from the premises of improved property and loading contents into removal vehicles and returning containers to places where found after contents have been emptied.
- (c) "Solid Waste Disposal" means the disposition of solid waste in accordance with rules and regulations promulgated by the City Manager with the approval of Council.
- (d) "Solid Waste Removal" means the hauling and transportation of solid waste from point of collection to point of disposal.
- (e) "Apartment Unit" means all premises, locations, or entities, public or private, requiring residential solid waste and recyclable material collections and delivery within the corporate limits of the City, not a residential unit.
- (f) "Commercial Solid Waste" means all solid waste generated by a producer at a commercial unit.
- (g) "Commercial Unit" means all premises, locations, or entities, public or private, requiring solid waste collections and disposal within the corporate of the City and to include residential unit with business located in the residence. Not a residential unit.
- (h) "Hazardous Waste" means waste, in any amount which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law.
- (i) "Independent Contractor" means the entity which the City might choose to perform its solid waste services within the City .
- (j) "Residence", as used within this article, shall mean an individual household or apartment.
- (k) "Residential Solid Waste" means all solid waste generated by a producer at an apartment unit or a residential unit.
- (l) "Residential Unit" means a dwelling within the corporate limits of the City of comprising not more than one occupied unit.

- (m) "Curbside Recycling Container" means a receptacle designated for the purpose of curbside collection of recyclable materials.
- (n) "Solid Waste" means those items included with the definition of solid waste as now or hereafter set forth in West Virginia Code 22-15-2 (31) and in Chapter 10 of the Codified Ordinances of the City.
- (o) "Recyclable Material" means bi-metal beverage cans, aluminum beverage cans, glass bottles, steel cans, newspaper, corrugated cardboard and plastics, and other materials as may be defined as recyclable materials under West Virginia Code, or applicable local, state and federal laws and regulations and under Code 1-7 of the Society of Plastics Industries.
- (p) "Dumpster" means a container that has a hooking mechanism that permits items to be raised and dumped into a sanitation truck.
- (q) "Uncompacted Dumpster" means a dumpster that is filled without the aid of compaction equipment.
- (r) "Compacted Dumpster" means a dumpster that is mechanically compacted that is economically compacted by either an integral or separate power unit, that results in more solid waste material by weight being placed in a container that is naturally filled.
- (s) "Drop-Off Recycling" means programs which the City may implement where by drop-off centers/ locations are designated by the City may deposit recyclable materials, as designated by the City.
- (t) "Holidays" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- (u) "Yard Waste" means grass clippings, weeds, leaves, brush, garden waste, shrub or tree prunings and other living or dead plant tissues, except that such material which, due to inadvertent contamination or mixture with other substances which render the waste unsuitable for composting, shall not be considered to be yard waste; provided that the same or similar waste generated by commercial agricultural enterprises is excluded.

SEC 10-2 PREMISES; Permitting Premises to Become Unsanitary or Hazardous

No person shall throw, place or scatter any solid waste, as defined in Section 10-1, over or upon any premises, street or alley, either public or private, or adjacent thereto; or permit from the accumulation of solid waste or litter on any premises owned and occupied or controlled by such person, to become or remain offensive, unsanitary, unsightly, unsafe to public health or hazardous from fire. For purposes of this section, the words "such person" as used in the preceding sentence shall include the owner of the realty, the landlord, and the tenant. Any property owner or occupant of an individual residence or business establishment who fails to maintain solid waste or litter-free premises shall be fined a minimum of fifty dollars (\$50.00) but no more than five hundred (\$500.00). Enforcement of violations of a failure to maintain a solid waste and litter free environment shall include provision to the municipal court of a dated photographic record of violation.

SEC 10-3 PROHIBITED DISPOSAL

No person shall deposit or dispose of any garbage, trash, refuse, litter or other waste matter or any carcass, or part thereof of any offal, upon any street, sidewalk, public place or vacant lot, or upon private premises owned or occupied by another; except that garbage, trash, refuse, or litter may be set out in receptacles for collection as provided in this chapter. No person shall deposit or dispose of any garbage, trash, refuse, litter or other waste matter or any carcass or part thereof, or any offal in any pond, lake, spring, well, gutter, drain, or in any water-course or upon the banks thereof. (1-4-89.)

SEC 10-4 LITTER; Refuse Receptacles; Occupant Responsibility

- (a) It shall be unlawful for any person to dispose of, or suffer to be disposed of, litter and/or refuse of any kind at any place within the city, unless refuse and litter disposal service has been purchased from the city or other vendor licensed by the Public Service Commissioner of the state of West Virginia and the litter and/or refuse is placed in receptacles provided for such purpose.
- (b) Litter and refuse originating on any premises shall be disposed of by the owner or occupant of the premises, and upon failure by owner or occupant to properly dispose of, or cause to be disposed of, such litter, the city shall provide disposal thereof and charge such owner or occupant a reasonable fee.

- (c) Litter and refuse shall not be deposited or permitted to remain upon any place where it would be subject to scattering by children, animals, the elements of nature or other means. (1-4-89; 5-16-96.)

SEC 10-5 DUTY OF CONTRACTORS TO REMOVE DEBRIS

Building contractors, excavators and other persons who in the course of their respective business cause debris, refuse, or litter of any kind to accumulate at any place within the city shall remove and dispose of such debris, refuse or litter periodically before it becomes a hazard to the public health, safety, or welfare, and at the completion of each project shall remove all such debris, refuse or litter and dispose thereof in a sanitary and lawful manner; provided, that when debris, refuse or litter accumulates on any vacant lot so as to become a nuisance and is not subject to removal by any contractor or other person as above provided, the city may collect and dispose of such debris, refuse or litter and the costs of such collection and disposal shall become a charge against the owner of such vacant lot and shall be collectible in the same manner set forth in Sec. 10-17 of this chapter. (1-4-89.)

ARTICLE II

Sec 10-6 SUPERVISION

All collections of garbage, trash, refuse, and litter shall be made by or subject to supervision of the City. Nothing contained in this article, however, shall be construed to compel the City to collect garbage, trash, refuse and litter in city vehicles or by City personnel.

Council reserves the right by proper order or resolution, subject to any agreement which the City may negotiate with an independent contractor for solid waste disposal to provide for the disposal of solid waste in a manner which complies with applicable state and federal laws, rules and regulations.

MAYOR and COUNCIL or other duly authorized officer, shall have the right to issue, promulgate and establish such rules and regulations as shall be deemed necessary or proper for the effective administration of this article and not inconsistent herewith.

Sec 10-8 PRIVATE COLLECTIONS PROHIBITED; Subscription to Municipal Service or City Designated Independent Contractor Required

No person, except the City or its designated independent contractor, shall engage in or conduct the business of collections, removal, or disposal of Solid Waste within the City. Private scavengers, pushcart operators and private garbage collections are hereby prohibited from engaging in the business of transporting or disposing of solid waste and all persons, business, houses, firms, or corporations residing in and doing business within the City shall be required in and doing within the City shall be required to subscribe to, take and pay for the service provided by the City or if the City so chooses, its designated independent contractor. The City and its designated contractor shall recognize any and all certificates of convenience and necessity issued to collect commercial trash within the City by WVPSC.

SEC 10-9 STORAGE

- (a) Each owner, occupant or other responsible person using or occupying any building or other premises within the city where garbage and reuse or litter accumulates shall provide and keep covered an adequate number of metal or approved plastic refuse containers. All food scraps or other waste of the edible variety shall be drained of all

free liquids and contained in tied plastic garbage bags prior to placement in the refuse containers. Except for storage bins or dumpsters that are handled mechanically, the combined weight of any refuse container and its contents shall not exceed seventy five pounds. Books, magazines, newspapers or other similar waste matter commonly referred to and known as dry garbage and trash, may be stored in paper cartons or packaged in tied bundles, however, each carton or tied bundle shall not exceed seventy-five pounds in total weight.

- (b) Large cardboard cartons, wood crates, plastic and glass containers or bottles, padded or shredded paper and all similar material used in the packing and delivery of merchandise, metal automotive parts and accessories , metal oil or grease containers and all other material and waste matter, refuse or litter discarded by commercial establishments shall be stored in accordance with subsection (a) of this section except, that large cardboard cartons and wood crates shall be broken down, separated and reduced to flat single sides or sections not exceeding six feet in length, shredded paper and packing material may be placed in cartons so long as the combined weight of material and carton does not exceed seventy-five pounds. Discarded bumpers, exhaust systems and other automotive parts or accessories shall be reduced to a length not exceeding six feet and the weight of a single item shall not exceed seventy-five pounds. (1-4-89.)

SEC 10-10 LOCATION OF CONTAINERS

Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six feet of the alley line in such position as not to intrude upon the traveled portion of the alley, or, where streets are used, containers shall be adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse of litter therefrom. As soon as practical after such containers have been emptied, they shall be removed by the owner to a place within or to the rear of the premises, or the prepared storage area, and away from the street or alley line, until the next scheduled time of collection. Any person with a physical infirmity or disability may enter a request to the city recorder for a more convenient collection location and upon verification, the recorder may grant such request, subject however , to review at any time by city council. (1-4-89.)

SEC 10-11 DISTURBING CONTAINERS

No unauthorized person shall uncover, ruffle, rifle, pilfer, dig into, turn over or in any other manner disturb or use any refuse or litter container belonging to another. This section shall not be construed to prohibit the use of public refuse or litter containers for their intended purpose. (1-4-89.)

SEC 10-12 IMPROPER DISPOSAL OF SOLID WASTE; ILLEGAL DUMPING; USE OF UNAUTHORIZED SOLID WASTE CONTAINERS

No person shall dispose of solid waste in an undesignated location. No person shall dispose of solid waste in unauthorized containers. The intent of the foregoing is to make it illegal for any person to place solid waste in a dumpster or other waste container owned or leased by another person unless first authorized to do so by both the City and the person who owns or leases the solid waste container. No person shall deposit either residential or commercial solid waste in a publicly owned trash receptacle that is located within a public right-of-way. Any person found guilty of violating this section shall be fined a minimum of two hundred fifty dollars (\$250.00) but no more than five hundred dollars (\$500.00).

SEC 10-12a PENALTY

Whoever violates any provision of this article, other than Section 10-2 or Section 10-12 or fails, neglects, or refuses to abide by and comply with the rules, regulations, promulgated to effectuate the provisions of this article, shall be fined not more than five hundred dollars (\$500.00).

ARTICLE III FEES AND PAYMENTS

SEC 10-13 SERVICE FEE

Pursuant to provisions of this section, refuse or litter disposal service shall be provided to every building or premises in the city upon payment of a service fee by the owner, occupant or other responsible person using or occupying said building or premises, and said service fee shall be established, regulated, charged and collected in accordance with, and as defined by, other sections of this article. (1-4-89.)

SEC 10-14 RATE SETTING

- (a) The garbage department shall keep an accurate record of all costs associated with garbage, refuse or litter collection and disposal. Including depreciation of equipment and costs incurred in the keeping of records and collection of fees. During the annual deliberations relative to preparation of a city budget, the city council shall utilize these records to estimate the cost of providing the contemplated service for each ensuing fiscal year.
- (b) Drawing upon garbage department expertise and records, the city council shall determine what proportion of the total costs are incurred in providing service to commercial customers are opposed to residential customers and rates shall be established in conformity with this ratio.
- (c) The total garbage department expense shall be no greater than ninety-five percent of the established garbage department revenue, however, rates shall not be continued if disclosed to be producing less revenue than is required to meet all obligations and costs involved in rendering service to the public. (1-4-89.)

SEC 10-15 RESIDENTIAL SERVICE RATE

The refuse and litter disposal rate for residential customers shall be twelve dollars per month. Said amount shall be prepaid and shall entitle the owner, occupant or other responsible persons to an adhesive; which shall be displayed at a location within sight of the collection point on the street, alley or upon a refuse container. (1-4-89; 5-16-96; Ord. of 12-3-2007, eff. 1-1-2008; Ord. of 6-8-2011)

SEC 10-16 COMMERCIAL SERVICE FEE

The refuse or litter disposal rate for each commercial customer shall be set by city council and be subject to periodic review to maintain a constant equitable rate, compatible with

budgetary requirements and rate setting procedures described in section 10-14 of this article. (1-4-89.)

SEC 10-17 SPECIAL SERVICE FEE

A minimum fee of ten dollars is hereby levied and will be charged for any special request for collection of refuse and litter described in SECTION 10-4(b), however, unusual circumstances requiring special handling and disposal may warrant additional charges.

In the event a customer has a need for a Independent Contractor, such as, remodeling, dumpster site, etc. A written request must be submitted to the City explaining the special need, and that the independent contractor meet all WVPSC requirements, has a valid City Business License, is current on B&O Taxes with the City. The City has the right to except or reject each request. This does not release the customer from their monthly fee. Each request will be reviewed on a case to case basis.

SEC 10-18 REFUNDS

Refund of prepaid charges shall be granted upon request by customers, provided, that said request is by reason of removal from the collection area served by the garbage department. Under no other circumstances shall refunds be granted, however, any unused portion of prepaid charges to one location may be transferred to a new location upon removal intra-city by the customer. (1-4-89.)

SEC 10-19 ENFORCEMENT

Premises which do not have the appropriate adhesive stamp displayed as out-lined in section 10-15, shall not receive city refuse or litter disposal service. Premises at which refuse or litter accumulates, and which do not receive refuse or litter disposal service shall be subject to the provisions of Chapter 16 of this code dealing with nuisances. (1-4-89.)

SEC 10-20 DISCOUNTS FOR EARLY PAYMENTS

Those customers prepaying service fees on a semi-annual basis shall be entitled to a ten percent discount if payment is received at least two weeks prior to July 1st or January 1st of any six-month period. Those customers prepaying service fees on an annual basis, either beginning January 1st or July 1st, shall be entitled to the same ten percent discount. (1-4-89; Ord. of 12-3-2007, eff. 1-1-2008)

SEC 10-21 SPECIAL PAYMENT PROVISIONS

Any customer utilizing the city refuse or litter disposal service may elect to pay the service fee on a monthly basis of one-twelfth of the annual rate, and the city recorder shall maintain account records, which shall identify each customer by name and method of payment

SEC 10-22 REAL ESTATE RENTAL OWNERS

Owners of any real estate for rental shall be ultimately responsible to provide refuse or litter disposal service to the occupant; however, the occupant may be billed directly if an appropriate affidavit is filed with the city recorder showing the occupant's status as such. However, the rendering of a bill to any occupant who is not the owner of the premises shall not affect or impair the right of the city to collect refuse or litter disposal service charges or fees from the owner in event any such bill becomes delinquent.

SEC 10-23 INDIVIDUALIZED RATES

The city council shall have the right to establish and authorize the city recorder to collect individualized charges and rates as may be proper for service to any person whose requirements are sufficiently abnormal or unusual, in the opinion of the council in conference with garbage department personnel, as to justify special handling of refuse or litter and such charges and rates shall be in lieu and in place of of those provided in sections 10-15 and 10-17. (1-4-89.)

SEC 10-24 RESIDENTIAL SOLID WASTE

The refuse or litter disposal service rate for residential customers shall be fifteen dollars (\$15.00) per month.

Sec 10-25 COMMERCIAL SOLID WASTE

(a) For purposes of this article, a structure containing more than one occupied residences shall be classified as a commercial unit. The City Manager is hereby authorized to issue a waiver, upon request, when he determines any such commercial unit containing residential units and the general welfare of the City would be better served by treating the structure as a residential unit(s). Small commercial businesses generating less than three thirty gallon containers or less per week shall be treated and billed as residential solid waste accounts.

(b) PICK UPS PER WEEK

CATEGORY	1	2	3	4	5
4 CU YD DUMPSTER	\$108.85	\$179.32	\$255.29	\$331.26	\$407.20
6 CU YD DUMPSTER	\$128.77	\$219.17	\$309.59	\$399.99	\$490.43
8 CU YD DUMPSTER	\$159.80	\$275.79	\$391.80	\$507.76	\$629.22

The foregoing shall be the maximum rates which shall be charged for commercial solid waste service. However, the City shall be authorized to negotiate lower rates with each commercial refuse account as the particular facts of a particular case might warrant.

(c) MATERIAL NOT COLLECTED

The City shall not collect, remove, or dispose of the following type of material: raw garbage, offal sewage, animal excrement, the carcasses of animals, vehicles, or parts of vehicles, tires, large tree stumps, hazardous waste or potentially hazardous or toxic waste or material resulting from demolition, repair, alteration or erection of building or structures.

(d) RECOVERY OF UNPAID CHARGES

If the fee, rate or charge for any of the foregoing services is not paid within thirty days (30) after the same is due, the amount thereof may be recovered with the laws of the state.