

AN ORDINANCE AMENDING SECTIONS 1139.01, 1139.05, 1139.08, 1139.111, 1139.12, AND 1139.15 ,AND DELETING THE CURRENT SECTION 1139.11 OF THE CITY OF MORGANTOWN'S HEALTH AND SANITATION CODE, AS THE SAME APPLY TO SOLID WASTE COLLECTION.

The City of Morgantown hereby ordains that Sections 1139.01, 1139.05, 1139.08, 1139.111, 1139.12 and 1139.15 of its Health and Sanitation Code are amended as follows, and the current Section 1139.11 of the Health and Sanitation Code is deleted as follows (new matter underlined, deleted matter struck through):

1139.01 DEFINITIONS.

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

- (a) "County Health Officer" means the Health Officer of the County.
- (b) "Private scavenger" means one who for hire, collects, removes or disposes of solid waste.
- (c) "Solid waste collections" 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, for which the charge is made as provided for in Section 1139.15.
- (d) "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.
- (e) "Solid waste removal" means the hauling and transportation of solid waste from point of collection to point of disposal.
- (f) "Apartment unit" means all premises, locations, or entities, public or private, requiring residential solid waste and recyclable materials collection and delivery within the corporate limits of the City, not a residential unit. An apartment unit shall be deemed occupied subject to Section 1139.15 (a).
- (g) "Commercial solid waste" means all garbage and rubbish generated by a producer at a commercial unit.
- (h) "Commercial unit" means all premises, locations or entities, public or private, requiring solid waste collection and disposal within the corporate limits of the City, not a residential unit.
- (i) "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.
- (j) "Independent contractor" means the entity which the City might choose to perform its garbage services within the City.
- (k) ~~"Residence", as used within this Article, shall mean an individual household, or apartment.~~
- (l) "Residential solid waste" means all garbage and rubbish generated by a producer at an apartment unit or residential unit.
- (m) "Residential unit" means a dwelling within the corporate limits of the City comprising not more than two occupied units. For billing purposes, a residential unit shall be deemed occupied subject to Section 1139.15(a).
- (n) "Recycling container" means a receptacle designated for the purpose of curbside collection or recyclable materials. The receptacle shall be one made of fiberglass or plastic that has been accepted by other cities with experienced curbside recycling.

- (o) "Solid waste" means those items included within the definition of solid waste as now or hereafter set forth in West Virginia Code 20-5f-2(i) and in Article 1139 of the Codified Ordinances of the City.
- (p) "Recyclable materials" means bi-metal beverage cans, aluminum beverage cans, glass bottles, steel cans, newspaper, corrugated cardboard and plastic and other materials as may be defined as recyclable materials under the West Virginia Code, or applicable local, state, and federal laws and regulations and under Code 1-7 of the Society of Plastics Industries.
- (q) "Dumpster" means a container that has a hooking mechanism that permits items to be raised and dumped into a sanitation truck.
- (r) "Uncompacted dumpster" means a dumpster that is filled without the aid of compaction equipment.
- (s) "Compacted dumpster" means a dumpster that is mechanically compacted by either an integral or separate power unit, that results in more solid waste material, by weight, being placed in a container than is naturally filled.

1139.05 STORAGE OF GARBAGE AND RECYCLABLES.

No person shall deposit or store garbage in solid waste containers unless such garbage has been prepared for collection, removal and disposal, and complies with the definition of solid waste as set out in this article. Lids shall be kept on garbage containers at all times. Garbage (solid waste) and recyclable containers are not to be stored in front yards or on front porches of residences on a regular basis, where said containers can be viewed by the general public, unless a special waiver for the same has been issued to a residence, in writing, by the City Manager. As stated in Section 1139.04, garbage which is not food product related or not of a recyclable nature may be stored in a garbage bag.

As part of the regularly scheduled garbage collection service to which a residence is entitled, in addition to the containers and/or bagged items described in Section 1139.04 of this Article, a residence shall be allowed to set out for collection one item that does not meet the criteria set forth in Section 1139.04, examples of which would include such things as furniture or appliances. If a residence has more than one such item that it wishes to set out for garbage collection, the residence must first contact the City of Morgantown's independent contractor and arrange for a special pickup by the independent contractor of those items. The cost to the residence for any such special pickup shall be determined by volume. Should a person have any questions as to whether any such item(s) is/are subject to special pickup treatment, prior to setting such item(s) out for pickup, the person shall first contact the City's independent contractor regarding the same.

Materials resulting from the rehabilitation, remodeling, or construction of a structure are not to be set out for regular garbage pickup and will require the property owner or the owner's agent to first schedule a special pickup by the City's independent contractor.

1139.08 LITTERING; PERMITTING PREMISES TO BECOME UNSANITARY OR HAZARDOUS.

No person shall throw, place or scatter any solid waste or garbage, as defined in Section 1139.05, 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 the same; or permit from the accumulation of solid waste or garbage, any premises owned, 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.

~~1139.11 STORAGE OF GARBAGE AND RECYCLABLES~~

~~No person shall deposit or store garbage in solid waste containers unless such garbage has been prepared for collection, removal and disposal, and complies with the definition of solid waste as set out in this article. Lids shall be kept on garbage containers at all times. Garbage (solid waste) and recyclable containers are not to be stored in front yards or on front porches or residences on a regular basis, where said containers can be viewed by the general public, unless a special waiver for the same has been issued to a residence, in writing, by the City Manager.~~

1139.111 1139.11 RULES FOR CERTAIN DESIGNATED AREAS FOR DAILY PICKUP AND FEES.

The City of Morgantown has determined that the following areas of the City require additional rules pertaining to garbage and its collection due to the garbage problems historically associated with those areas resulting from their higher population densities and large percentage of rental housing:

~~The following areas of the City are designated for daily residential garbage pickup:~~

1. Pennsylvania Avenue (from Kingwood Street to Brockway Avenue)
2. Baird Street (from Forest Avenue to end)
3. Forest Avenue (from Spruce Street to end)
4. Dallas Street (from Forest Avenue to Locust Avenue)
5. Locust Avenue (from Dallas Street to Richwood Avenue)
6. Locust Avenue (from Dallas Street to Pine Avenue)
7. Pine Avenue (from Locust Avenue to Chapman Street)
8. Chapman Street (from Pine Avenue to Gem Street)
9. Gem Street (from Locust Avenue to Richwood Avenue)
10. Pearl Street (from Richwood Avenue to Cass Street)
11. Cass Street (from Allen Avenue to Battelle Avenue)
12. Allen Avenue (from East Prospect Street to Snyder Street)
13. East Prospect Street (from Richwood Avenue to Battelle Avenue)
14. Battelle Avenue (from East Prospect Street to Cass Street)
15. North Willey Street (from Spruce Street to Mansion Avenue)
16. Weaver Street (from Richwood Avenue to Oak Street)
17. Snyder Street (from Richwood Avenue to Oak Street)
18. Garrison Avenue (from Snyder to Oak Street)
19. Richwood Avenue (from North Willey Street to Gem Street)
20. Cornell Avenue (from North Willey Street to College Avenue)
21. Price Street (from North Willey Street to Cornell Avenue)
22. College Avenue (from University Avenue to North Willey Street)
23. University Avenue (from College Avenue to Ensign Avenue)
24. Falling Run Road (from University Avenue to end)
25. Protzman Street (from Falling Run Road to Stewart Street)
26. Mason Street (from Yoke Street to Protzman Street)
27. Yoke Street (from Falling Run Road to Stewart Street)
28. Stewart Street (from University Avenue to Protzman Street)
29. Campus Drive (from University Avenue to Beechurst Avenue)
30. Jones Avenue (from North Street to ~~University Avenue~~ Stewart Street)

31. Lorentz Avenue (from Stewart Street to Sharon Avenue)
32. Sharon Avenue (from Jones Street to Lorentz Avenue)
33. Smith Avenue (from Jones Avenue to Morgan Street)
34. Wellen Street (from Stewart Street to Duquesne Avenue)
35. Duquesne Avenue (from Wellen Street to Morgan Street)
36. Morgan Street (from Duquesne Avenue to Highland Avenue)
37. Highland Avenue (from Melrose Street to Stewart Street)
38. Raymond Street (from Highland Avenue to Duquesne Avenue)
39. First Street (from Jones Avenue to Stewart Street)
40. Carson Street (from University Avenue to McLane Avenue)
41. First Street (from University Avenue to McLane Avenue)
42. Second Street (from University Avenue to McLane Avenue)
43. Houston Drive (from University Avenue to McLane Avenue)
44. Grant Avenue (from Eighth Street to Campus Drive)
45. McLane Avenue (from Campus Drive to Eighth Street)
46. Beechurst Avenue (from Campus Drive to Eighth Street)
47. Third Street (from Beverly Avenue to Beechurst Avenue)
48. Fourth Street (from McLane Avenue to Beechurst Avenue)
49. Fifth Street (from McLane Avenue to Beechurst Avenue)
50. Sixth Street (from Beverly Avenue to Beechurst Avenue)
51. Seventh Street (from Grant Avenue to Beechurst Avenue)
52. Beverly Avenue (from University Avenue to Sixth Street)
53. Quay Street (First Street to end)
54. Overhill Street (Jones Avenue to University Avenue)
55. Fife Avenue (Willey Street to North High Street)
56. Wells Street (Fife Avenue to end)
57. Naomi Street (Fife Street to Mansion Street)
58. Burke Street (Price Street to Naomi Street)
59. North Spruce Street (Willey Street to Fife Street)
60. Wiles Street (North Spruce Street to Price Street)
61. Glendon Avenue (Price Street to end)
62. Waverly Street (Price Street to North High Street)
63. Belmar Street (Price Street to North High Street)

In addition to the garbage rates set forth in Section 1139.15, each residence within a designated daily residential garbage pickup area shall also pay an additional ~~\$8.00~~ \$10.00 per month which will offset the additional cost to the City for the residence's onsite/non-curb pickup.

~~Each resident within a designated daily residential garbage pickup area shall \$20.00 per month which will offset the additional cost to the City for the residence's back door toter service as defined below: Should any residence of any such designated area wish to be exempted from the daily service and fee, the residence may file a request for the same with the City Manager, who after examining the facts of the particular residence may issue a written exemption to the residence. The decision to issue such an exemption shall be at the complete discretion of the City Manager.~~

Each residence within the above defined areas shall be required to bag all garbage and thereafter place such bags in special containers, known as 90 gallon "toters" to be provided to each such residence

by the City's independent contractor. The toters shall be owned by the City's independent contractor and each such residence shall be required to obtain two such toters from the City's independent contractor and place a \$50.00 per toter security deposit with the independent contractor, which shall be applied to the cost of replacing such toter should it become damaged or stolen while being used by the residence.

Residences within the designated areas established by this Section shall not place their garbage at curbside for collection, but rather, shall store such garbage in toters at the rear of their realty or, as an alternative, in a location on the realty agreed to by the City's independent contractor. The City's independent contractor shall collect the garbage from the above storage location.

Should any residence within an area designated by this Section wish to be exempted from any specific requirement of this Section, the residence may file a request for the same with the City Manager, who after examining the facts of the particular residence may issue a written exemption to the residence. The decision to issue such an exemption shall be at the complete discretion of the City Manager.

~~All residences within the designated daily pickup area shall be required to use heavy duty garbage bags rather than trash cans, and this requirement shall supercede the trash can requirement contained in Section 1139.04 of this article. Should any residence within the designated area wish to be exempted from the plastic garbage bag requirement, the residence may file a request for the same with the City Manager, who after examining the facts of the particular residence may issue a written exemption to the residence. The decision to issue such an exemption shall be at the discretion of the City Manager.~~

Residences within designated garbage pickup areas shall be required to comply with all sections of this article which are not in conflict with the requirements imposed by this section.

1139.12 ACCESSIBILITY OF SOLID WASTE AND RECYCLING CONTAINERS

All persons, other than those residing on streets designated in Section 1139.11,using the essential services provided for in this article within the City shall make all solid waste and recycling containers available at the curb or edge of pavement, unless otherwise directed by the City Manager by 6:00 a.m. on the scheduled day of collection for the particular area in which users reside (rear yard or other special pickup areas shall be serviced at no additional cost for the handicapped, elderly or others who cannot transport their solid waste and recycling containers to the street). All users of such essential services shall ascertain the collection schedules for the area in which they reside and if any such user of such essential services fails to make his solid waste and recycling containers available as herein required, the collectors shall refuse to make such collection and such refusal shall not constitute a failure of collection; provided, however, that where, by reason of the number of users of such service located in one building or where no facilities are or can be made available for the placing of garbage and/or recycling containers at the curb or edge of pavement or where for any other reason it appears impossible or impracticable for such user of such service to comply with the provisions of this section, then in any such events any such user may apply to the City Manager for permission to be exempt from the provisions of this section and upon investigation by the City Manager, it appearing proper to do so, the City Manager may issue a certificate of exemption from the provisions of this section. In those cases in which the placement of solid waste at the front yard curbside has caused repeated problems affecting the health, safety, and general welfare of the City and its inhabitants, the City Manager shall have the authority to direct the customer at any such location to place said solid waste at another location on or near the property for pickup. Any user of such service who is aggrieved by a decision of the City Manager with regard to this section may appeal such decision in writing to Council within thirty days from and after the date of the decision of such City Manager. Council shall fix a time for the hearing of such appeal and after due notice to all parties in interest, shall hear such appeal at a public hearing at the regular meeting of Council and the decision of

Council thereon shall be final. Solid waste and recycling containers may be placed at their pick-up site no earlier than 6:00 p.m. on the day before the scheduled day of collection and all empty permanent type of solid waste and recycling containers shall be removed by 9:00 p.m. on the day of collection. Any person found guilty of violating this section shall be fined a minimum of twenty-five dollars (\$25.00) but not more than five hundred dollars (\$500.00).

1139.15 RATES

Inasmuch as the City has selected an independent contractor to provide garbage service for it within the City for at least five consecutive years beginning October 1, 1993, the following rates are hereby established for such service.

(a) Residential Solid Waste

Period	Rate (Monthly)
Oct. 1, 1993 -Sept. 30, 1994	\$7.75
Oct. 1, 1994 -Sept. 30, 1994	7.75
Oct. 1, 1995 - Sept. 30, 1996	8.76
Oct. 1, 1996 - Sept. 30, 1997	9.00
Oct. 1, 1997 - Sept. 30, 1998	9.45

Inasmuch as the City's independent contractor will, pursuant to its contract with the City, continue providing garbage service from October 1, 1998 through September 30, 2002, the following rates are hereby established for such service period.

Period	Rate (Monthly)
Beginning Oct. 1, 1998	\$9.55
Beginning January 1, 2000	9.75
Beginning January 1, 2001	10.00

The foregoing fees shall be billed by the City's independent contractor to each and every residential solid waste producer. Should any such unit be occupied for less than a full three-month billing cycle, upon request and proof of same, the City's independent contractor shall prorate the occupant's sanitation bill for that three-month billing cycle; however, in all such cases the occupant shall be billed a full month for any month that he or she occupied such unit for one day or more. A property owner seeking to have any such permit unit exempted from the sanitation billing due to non-occupancy shall submit a signed affidavit to the City's independent contractor requesting such exemption on a form prescribed by such independent contractor; in all such cases payment shall be required for any month that the unit is occupied for one day or more.

A one-month discount shall be offered to any person paying in advance for twelve months of service.

Effective January 1, 2001, should the West Virginia Public Service Commission hereafter approve any surcharges, which the City's independent contractor will be adding to the monthly bills of residential customers, the above established monthly rate will be reduced by an equal amount of any such surcharge. Total reductions, as a result of any approved

surcharges, shall not exceed 25 cents per month per residential customer.

(b) Commercial Solid Waste

Category_____	Pickups Per Week						
	1	2	3	4	5	6	7
Monthly Rate___							
1 cu. yd. dumpster	\$41.92	\$71.50	\$101.08	\$130.67	\$160.26	\$189.84	\$221.90
2 cu. yd. dumpster	49.59	84.39	119.18	153.99	188.79	233.59	256.82
3 cu. yd. dumpster	64.59	110.70	156.80	202.17	249.02	295.11	336.54
4 cu. yd. dumpster	73.46	121.03	172.30	223.57	274.84	326.10	390.31
6 cu. yd. dumpster	89.61	147.93	208.95	269.97	331.00	392.01	454.27
8 cu. yd. dumpster	107.86	186.14	264.43	342.70	424.68	499.26	562.87
15-42 yd. roll-off	124.84	124.84	124.84	124.84	124.84	124.84	124.84

Effective January 1, 2000, the above commercial rates shall increase to:

1 cu. yd. dumpster	\$43.17	73.64	\$104.11	\$134.59	\$165.06	\$195.53	\$228.55
2 cu. yd. dumpster	51.07	86.92	122.75	158.61	194.45	230.28	264.52
3 cu. yd. dumpster	66.52	114.02	161.50	208.23	256.49	303.96	346.63
4 cu. yd. dumpster	75.66	124.66	177.47	230.27	283.08	335.88	402.02
6 cu. yd. dumpster	89.51	152.36	215.21	278.07	340.93	403.77	467.89
8 cu. yd. dumpster	111.09	191.72	272.36	352.98	437.42	514.23	579.75
15-42 yd. roll-off	128.58	128.58	128.58	128.58	128.58	128.58	128.58

Effective January 1, 2001, the above commercial rates shall increase to:

1 cu. yd. dumpster	\$44.47	\$75.85	\$107.23	\$138.63	\$170.01	\$201.40	\$235.41
2 cu. yd. dumpster	52.60	89.53	126.43	163.37	200.28	237.20	272.46

Category	Pickups Per Week							
	1	2	3	4	5	6	7	
3 cu. yd. dumpster		68.52	117.44	166.35	214.48	264.18	313.08	357.03
4 cu. yd. dumpster		77.93	128.40	182.79	237.18	291.57	345.96	414.08
6 cu. yd. dumpster		92.20	157.93	221.67	286.41	351.16	415.88	481.93
8 cu. yd. dumpster		114.42	197.47	280.53	363.57	450.54	529.66	597.14
15-42 yd. roll-off		132.44	132.44	132.44	132.44	132.44	132.44	132.44

Effective August 1, 2004, the January 1, 2001, commercial rates stated above shall be expanded to include the monthly rate for 90 gallon toter service for structures containing more than two occupied residences. The monthly rate shall be \$20.00 for each residence within any such structure and two 90 gallon toters are required for each such residence within the structure. Pick-ups shall occur one time per week. The toter security deposit and onsite storage regulations set forth in Section 1139.11 of this Article shall be applicable. The City's independent contractor shall have the authority to determine whether any such residential structure must have a dumpster rather than toters, due to the amount of solid waste being generated by the structure.

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

Should any such commercial solid waste unit be occupied for less than a full three-month billing cycle, upon request and proof of same, the contractor shall prorate the occupant's sanitation bill for that three-month billing cycle; however, in all such cases, the occupant shall be billed a full month for any month that the unit was occupied for one day or more. A property owner seeking to have any such unit exempted from sanitation billing due to non-occupancy shall submit a signed affidavit to the contractor requesting such exemption on a form prescribed by the contractor; in all such cases payment shall be required for any month that the unit was occupied for one day or more. Effective January 1, 2001, should the West Virginia Public Service Commission thereafter approve any surcharges, which the City's independent contractor will be adding to the monthly bills of commercial customers, the above established monthly rates will be reduced by an equal amount of any such surcharge. Total reductions, as a result of any approved surcharges, shall not exceed 3% per month, per commercial customer.

As defined in Sections 1139.01(1) and 1139.01(h), for purposes of this article, a structure containing more than two occupied ~~residential units~~ 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.

(c) Materials Not Collected. Neither the City nor, if the case may be, its independent contractor, shall collect, remove or dispose of the following types of materials: raw garbage, offal, sewage, animal excreta, the carcasses of animals, vehicles or parts of vehicles, tires, large tree stumps, hazardous or potentially

hazardous or toxic waste or material resulting from the demolition, repair, alteration or erection of buildings 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 after the same is due, the amount therein may be recovered with the laws of the State.

(e) Placing Items at Curbside. All items authorized by this article to be collected at curbside by the Sanitation Department or, if applicable, its designated independent contractor, shall be placed for collection at curbside not sooner than twelve hours prior to 6:00 a.m. on the day of collection.

This ordinance shall be effective upon date of its adoption.

First Reading:

Mayor

Adopted:

Filed:

City Clerk

Recorded:
