

ORDINANCE NO. 31-2009

**TITLE: "REFUSE COLLECTION AND DISPOSAL PROGRAM"
AMENDING ORD. NO. 11-2008**

AN ORDINANCE AMENDING ORD. NO. 11-2008, "REFUSE COLLECTION AND DISPOSAL PROGRAM," TO REFLECT AN INCREASE IN THE TRASH HAULERS PERMIT FEE (SECTION 1060.03) AND TO REFLECT AN INCREASE IN THE MONTHLY SERVICE FEE (SECTION 1060.08), DUE TO THE CONTRACT PRICE ADJUSTMENT, AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Section 1060.03 and Section 1060.08 of Ordinance No. 11-2008, "Refuse Collection and Disposal Program," shall be amended by showing deletions using a ~~strike through~~ and additions as shown in **bold print**.

1060.01 DEFINITIONS.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

(a) "Multiple family residence" means the grouping together under a common roof of two, three or four residential units.

(b) "Refuse" means all waste or offal of fish, fowl, fruit and other animal and vegetable matter resulting from the preparation of food for human consumption; lawn, hedge and grass clippings and tree trimmings; paper, magazines, barrels, boxes and baskets; and discarded rags, mattresses, furniture, shoes, leather, carpets, scrap metal, broken dishes, glassware, tin cans and other discarded household materials of a similar nature. "Refuse" does not include such materials as tires, broken or whole bricks or cement, wood, ashes, stone, gravel, cinders, asphalt, earth, feces, large household appliances such as stoves, refrigerators, etc., or the following recyclable materials: newspapers, aluminum cans, bimetal cans, tin (steel) cans, plastic (styrofoam), glass jars and bottles, corrugated cardboard, telephone books, and magazines.

(c) "Residential unit" means the place of abode of a person or persons living separately or together as an independent family.

1060.02 METHOD OF COLLECTION.

(a) City-wide curbside pick-up. On Monday of each week, and Monday only, a residential unit and multiple family residence shall be entitled to the pick-up of refuse by placing it at curbside no earlier than one hour before sunset on Sunday and no later than 7:00 a.m. on Monday under the following method:

(1) Residential units shall be entitled to the pick-up of trash and garbage which is placed at the curb in either 20-gallon or 30-gallon garbage cans, plastic bags (tied securely), cardboard boxes, or bundles (brush, etc.). Each residential unit may place on the curb, for collection, appliances, furniture, and the following residential items too large for containers (maximum acceptable dimensions are shown where applicable):

- Bathroom fixtures
- Bookcases
- Car seats
- Carpet (securely tied in rolls no longer than 4')

Dog houses, dismantled (no pieces larger than 4' x 4' x 4")
Fencing (rolled and tied, not over 4' in length)
Firewood storage boxes, dismantled (not over 4' long)
Furnaces
Furniture
Grass (if bagged)
House doors
Household appliances: washers, dryers, stoves, etc. (no items with freon and/or refrigeration compressors)
Mufflers
Pallets (no longer than 4', dismantled and tied in bundles)
Picnic tables, dismantled (no pieces larger than 4' x 4' x 4")
Spouting
Storm doors
Storm windows
Swing sets, dismantled
Tail pipes
Tree trimmings, brush or hedge trimmings (if tied in bundles no longer than 4')
TV antenna, dismantled
Water heaters
Window boxes or planters (not over 4' long)
Wood (no larger than 4' x 4' x 4", with no exposed nails, tied in bundles)

Exception:

No appliances containing freon
No construction material
No dirt, soil or feces
No evictions or whole-house cleanouts

(2) The Director of Public Service may, upon written notification to Council, add items to or delete items from the lists set forth in division (a) (1)A. of this section as the Director deems necessary for the health, safety and welfare of the citizens of the City.

(3) Upon written notice to the Service Department, cancellation of this program requires a thirty (30) day written notice, the water must be turned off, may be cancelled only in increments of thirty (30) days, and may not be cancelled more than twice a year. The residential unit must continue to pay for the service for the first 30 days of the cancellation period. When the residential unit intends to resume its entitlement to citywide pick-up service, such service shall be reinstated upon proper notification to the Service Department.

(4) All trash containers must be available for pickup at the curb unless the resident is physically disabled. In such cases, special arrangements will be made.

(5) All recyclable items must be placed in proper recycling containers and placed at curbside along with non-recyclable trash and garbage.

(6) All trash must be generated in the City of Barberton to be eligible for the citywide trash services. Any trash not generated from the City of Barberton is prohibited from being placed curbside for residential citywide pickup.

(b) Private haulers not permitted. No residential unit may hire a private hauler licensed under Section 1060.03.

(c) Pickup of Court-ordered Evictions and Whole-house Cleanouts.

(1) After twenty-four (24) hours, a property owner/landlord shall be responsible to remove any items and/or trash left on the curb. If the property owner/landlord fails to do so, the City has the authority to have the items removed and any and all costs related to this removal shall be the responsibility of the property owner/landlord.

(2) The Municipal Court may also charge said costs as part of a fine in any criminal action. Any costs collected as a fine shall be remitted back to the City and placed in the General Fund.

(3) If the City is not reimbursed for these removal costs, the City reserves the right to assess these costs on the taxes of said property and collect them as a lien on the property, as well as recovering these costs in any other manner provided by law.

(d) Bylaws and regulations. Upon written notification to Council, the Director of Public Service may make such bylaws and regulations as the Director deems necessary for the safe, economical and efficient management of the services provided under this section, provided that such bylaws and regulations do not expressly conflict with any provisions of this chapter.

1060.03 PERMIT.

(a) No person shall engage in the business of collecting, hauling, removing and/or disposing of recyclables, garbage, animal or vegetable refuse, ashes, rubbish, trash or waste materials of any kind within the City and upon its streets without first obtaining an annual permit from the Director of Public Service and without complying with the requirements of this chapter. The fee for such a permit shall be ~~two hundred fifty dollars (\$250.00)~~ **three hundred dollars (\$300.00)** per year for each motor vehicle to be operated within the City.

(b) Whoever desires a permit to engage in any business described in subsection (a) hereof shall make written application therefore at the Municipal Building. The written application must be made on the form provided, correctly stating the following information:

- (1) The name, address and telephone number of applicant;
- (2) The make, model, year and current registration license of any motor vehicle used in the business;
- (3) A brief description of the type of materials to be collected;
- (4) The applicant's business name, address and telephone number;
- (5) The name, address and telephone number of each principal owner of the applicant;
- (6) The type of business (commercial or residential);
- (7) The location of the site for disposing of solid waste and recyclables;
- (8) A list of customers for whom the applicant has provided or is currently providing solid waste and commercial/industrial recycling collection services.

(c) Upon payment by the applicant of a permit fee as set forth in subsection (a) hereof, the Director of Public Service shall issue to the applicant a permit, valid from the date of issuance to March 1 of the following year, together with a license identification to affix to each motor vehicle in an unobscured, conspicuous place. The permit fee shall be collected for the purpose of reimbursing the City for the cost of processing the permit application.

(d) Each permit holder shall be required to post with the City a five hundred dollar (\$500.00) cash or surety bond to insure the faithful performance of duties and responsibilities required of such permit holder by this chapter and by ordinances regulating vehicular traffic in the City as well as trash and recyclable collection and transportation.

(e) Each permit holder must carry proper liability insurance for each vehicle in the following amounts: personal injury, one million dollars (\$1,000,000.00) per person and one million dollars (\$1,000,000.00) per occurrence; property damage, three hundred thousand dollars (\$300,000.00) per occurrence.

(f) Each permit holder must provide the name of the facility to which the Municipal solid waste and recyclables are transported and disposed.

(g) Each permit holder, as well as any other trash collector or hauler, shall not operate within the City limits between the hours of 11:00 p.m. and 5:00 a.m.

1060.04 TRANSPORTING.

Industrial, commercial or individual producers of refuse may transport such refuse through the streets of Barberton; provided that such transport is made in trucks or vehicles so constructed as to prevent the leakage or scattering of the contents thereof. All such vehicles shall be provided with a suitable tarpaulin which shall at all times cover the contents thereof except when being loaded or unloaded. Further, the ultimate disposal of such garbage or refuse must be made without violating any other provisions of this chapter.

1060.05 PROHIBITED DISPOSAL.

No person within the limits of the City of Barberton shall throw any refuse upon the ground or bury the same upon any premises, public or private, or burn the same in any place, provided, however, that this section shall not prevent the use of mechanical disposal devices.

1060.06 BOARD OF SANITARY COLLECTION APPEALS.

(a) Establishment; Right of Appeal; Hardship Cases. There is hereby established a Board of Sanitary Collection Appeals consisting of the Director of Public Service, a resident elector appointed by Council and a resident elector appointed by the Mayor. Any administrative decision made by any person charged with the enforcement of this chapter may be appealed to the Board of Sanitary Collection Appeals by any person claiming to be adversely affected by such decision. Where there are unnecessary hardships due to lack of adequate income, the Board of Sanitary Collection Appeals shall have the power, in a specific case, to authorize refuse collection without charge or for a reduced charge and to interpret any such provision in harmony with the general purpose and intent of this chapter so that the public health, safety and general welfare may be secured and so that substantial justice and equity may be done.

(b) Meetings; Rules and Regulations. All meetings of the Board of Sanitary Collection Appeals shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if any member is absent or fails to vote, indicating such fact. The Board shall, from time to time, adopt such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter. Two members shall constitute a quorum and two affirmative votes will be needed to pass any resolution or motion.

(c) Term; Compensation. The members of the Board of Sanitary Collection Appeals shall serve without compensation for a term of two years. However, the term of the first member appointed to the Board by the Mayor shall be for only one year.

1060.07 EXEMPTION FOR CITY.

The City of Barberton is expressly exempted from the provisions of this chapter pertaining to permits or any other section of this chapter which might be construed as requiring the City of Barberton to pay any fee or obtain any permit or license.

1060.08 RESIDENTIAL PAYMENT FEES.

Residents of the City will be charged a fee of ~~\$15.50~~ **\$16.30** per month for the provision of curbside refuse and recyclable pick-up. Residents participating in the “Barberton Residential Services Relief Program” are eligible for a reduced fee of ~~\$12.40~~ **\$13.10** per month. The fees provided by this section shall be included in monthly utility bills received by customers.

The fees laid out in the paragraph above are subject to future changes based upon provisions made in the Contract authorized by the within ordinance and as authorized by future legislation passed by City Council should any become necessary.

1060.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues after the offender has been notified of the violation. The Barberton Building Commissioner shall have the authority to enforce this section under the provisions set out by the BOCA National Property Maintenance Code.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, for the reason that the new rates need to be in effect as soon as possible, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed _____ 2009

Clerk of Council

President of Council

Approved _____ 2009

Mayor