

**The Common Council
of the
City of Waukesha, Wisconsin**

Ordinance No. _____-15

An Ordinance Repealing Municipal Code §11.04, Repealing and Recreating §13.055, and Creating §13.056, Regarding Solid Waste and Recyclables Collection

Whereas the City previously did not have a single, comprehensive ordinance regarding solid waste and recyclables collection, but had separate Code sections in different chapters which, when taken together, still did not comprehensively deal with the subject; and

Whereas existing Municipal Code §13.055 contained provisions regarding both residential and commercial waste collection, making it difficult to find the commercial provisions within the Code; and

Whereas the Common Council finds it in the best interest of the City to create an ordinance which comprehensively deals with residential solid waste and recyclables collection, and an ordinance which deals separately with commercial waste collection times;

Now, therefore, the Mayor and Common Council of the City of Waukesha do ordain as follows:

Section 1. Municipal Code §11.04 is repealed in its entirety.

Section 2. Municipal Code §13.055 is repealed and recreated to read in its entirety as follows:

13.055 Residential Solid Waste and Recyclables Collection.

- (1) **General.** The City shall provide either Solid Waste or Recyclables collection, or both, to Eligible Properties, subject to all of the terms and conditions of this Section 13.055. Solid Waste and Recyclables collection shall not be provided by the City to properties that are not Eligible Properties, except as specifically provided in subsection (4)(a), and the owners and occupants of those properties shall dispose of their Solid Waste and Recyclables in compliance with all applicable laws, at their sole expense.
- (2) **Definitions.** For purposes of this Section 13.055, the following terms have the following meanings:
 - (a) **Cart.** Cart means the approved Solid Waste or Recyclables container delivered to Eligible Properties by the City or its agents.
 - (b) **Department.** Department means the City of Waukesha Department of Public Works.
 - (c) **Recyclables.** Recyclables means household waste that is accepted by the Waukesha County recycling program, and is listed in the Residential Recycling

Regulations published and updated periodically by the Department. Material that is not listed in the Residential Recycling Regulations will not be collected, and its placement in Recyclables Carts for collection is prohibited.

- (d) **Rooming House.** Rooming House means a rooming house as defined in Municipal Code §22.05(155).
 - (e) **Solid Waste.** Solid Waste means household waste that is not recyclable, is not yard waste, is not prohibited by law from disposal in Wisconsin landfills, and is not listed in the Residential Recycling Regulations published and updated periodically by the Department. Placement in Solid Waste Carts of materials that are listed in the Residential Recycling Regulations is prohibited.
- (3) **Eligibility for Collection Services.** Properties may be eligible for collection services for Solid Waste, Recyclables, or both, according to the following criteria:
- (a) **Solid Waste.** A building that meets all of the following criteria is an Eligible Property for Solid Waste collection services:
 - i. Is located within the corporate limits of the City of Waukesha.
 - ii. Is used exclusively for residential purposes. Home businesses occupying no more than 5% of the total floor space of any residential unit shall not disqualify the building from being deemed used exclusively for residential purposes.
 - iii. Contains no more than four dwelling units, or for Rooming Houses, has no more than four bedrooms.
 - iv. Its front elevation faces a public street; except that any building comprised of only one dwelling unit may be oriented in any way with respect to the public street on which it is located.
 - v. Is not subject to a contract or recorded covenant that specifies that the City shall not provide Solid Waste collection at the property.
 - (b) **Recyclables.** A building that meets all of the following criteria is an Eligible Property for Recyclables collection services:
 - i. Is located within the corporate limits of the City of Waukesha.
 - ii. Is used exclusively for residential purposes. Home businesses occupying no more than 5% of the total floor space of any residential unit shall not disqualify the building from being deemed used exclusively for residential purposes.
 - iii. Contains no more than four dwelling units, or for Rooming Houses, has no more than four bedrooms.
 - iv. Is located on a public street or on a private drive; provided the private drive is of sufficient size to accommodate collection vehicles and the owner of the

building executes a release and waiver of damages to the private drive caused by the collection contractor's vehicles, if required by the contractor. The determination of a private drive's sufficiency shall be in the sole discretion of the Department.

- v. Is not subject to a contract or recorded covenant that specifies that the City shall not provide Recyclables collection at the property.

- (c) **Grandfather Provisions.** A building that does not meet the criteria of eligibility for Recyclables collection in subsections (3)(b)iii or (3)(b)iv shall be deemed to be an Eligible Property for Recyclables collection if it is receiving Recyclables collections service from the City as of August 4, 2015; provided, however, such eligibility shall terminate upon the expiration of the contract with the collection contractor that is in effect as of August 4, 2015. A Rooming House that does not meet the criteria of eligibility for Solid Waste collection in subsections (3)(a)iii or (3)(a)iv shall be deemed to be an Eligible Property for Solid Waste collection if it is receiving Recyclables collections service from the City as of August 4, 2015; provided, however, such eligibility shall terminate upon the expiration of the contract with the collection contractor that is in effect as of August 4, 2015.

(4) Additional Eligibility Rules.

- (a) **Discretionary Eligibility.** The Department may, in its sole discretion, deem certain properties to be Eligible Properties even though they may not strictly meet all of the criteria listed in subsection (3), provided the criteria or the reasons underlying the criteria are substantially met, or other factors make it advisable for the Department to do so. This Discretionary Eligibility may be revoked by the Department, at any time, in its sole discretion.
- (b) **Central Business District Apartments.** Apartments in the Central Business District, as defined in Municipal Code §7.04(6), shall not be disqualified from being Eligible Properties by reason of non-residential use in the building, provided the building meets the remainder of the criteria stated in subsection (3). Such eligibility shall extend only to residential apartments in the building, and not to any non-commercial portions of the building.
- (c) **Eligibility by Contract.** Planned-unit developments and planned-development districts that receive City Solid Waste and Recyclables collection pursuant to development agreements or other contracts with the City as of August 4, 2015 shall be deemed to be Eligible Properties, even though they may not meet the criteria of subsection (3), until they are no longer entitled to receive City collection services pursuant to the terms of the development agreements or contracts. After August 4, 2015, variances from the requirements of this Section by planned-unit development agreement shall be prohibited.

(5) General Collection Rules. The following rules apply to all Eligible Properties, except as provided otherwise in subsection (6):

- (a) **Initial Cart Delivery.** Carts will be assigned and delivered to Eligible Properties by the City or its agents. The initial delivery shall be at the City's expense.

- (b) **Containers other than Carts Prohibited.** All Solid Waste and Recyclables must be in Carts, and all other containers for Solid Waste and Recyclables collection are prohibited. Placement of any Solid Waste or Recyclables for collection in any containers other than Carts is prohibited.
- (c) **Cart Placement.** Carts shall be placed adjacent to a public street or alley, as designated by the Department for the specific Eligible Property. Carts shall not be placed adjacent to private roads. Carts shall be aligned so that the pick-up bar faces the street, without obstruction between the Cart and the street, so the automated arm on the truck can reach it without repositioning of the Cart by the driver. Carts shall be placed in the area between the sidewalk and the curb, or at the edge of pavement where there is no curb, adjacent to Eligible Properties. Carts shall be placed at least 3 feet from other Carts or other objects.
- (d) **Collection Schedule.** Solid waste shall be collected once every week, on a scheduled collection day, Monday through Friday. Collection days shall be determined by the Department. Collection schedules may be altered due to holidays or other circumstances, in the Department's discretion. Recyclables shall be collected once every other week, on the same scheduled collection day as Solid Waste.
- (e) **Placement and Removal Times.** Carts shall be placed for collection no earlier than noon the day before scheduled collection, and no later than 6:30 a.m. the day of scheduled collection. Carts that have been emptied shall be removed from the collection location no later than 9:30 p.m. the day of scheduled collection; Carts that have not been emptied shall be removed from the collection location no later than noon the day after scheduled collection. Violations of this subsection may result in Carts being removed by the City, and fees for the removal and return of the Carts being charged to the owner or occupant responsible for the placement of the Carts, as described in the Residential Solid Waste and Recycling Cart Regulations published and updated periodically by the Department.
- (f) **Cart Use Limited to Eligible Properties.** Properties that are not Eligible Properties are prohibited from using City-supplied Carts as defined in subsection (2)(a).

(6) Exceptions for Special Properties.

- (a) **Special Properties.** The following Special Properties shall be subject to the Special Rules in subsection (6)(b).
 - i. Eligible Properties located in the Central Business District, as defined in Municipal Code §7.04(6).
 - ii. Eligible Properties assigned alley pickup by the Department.
 - iii. Other Eligible Properties where automated Cart collection is not feasible, as determined in the sole discretion of the Department.

(b) Special Rules.

- i. Allowable Containers.** Special Properties shall not use Carts, and shall use appropriate, clean, sanitary, and serviceable Solid Waste containers not exceeding 33 gallons in capacity, and not exceeding 50 pounds in weight when fully loaded; and shall use standard, blue recycling bins for Recyclables.
- ii. Container Placement.** Solid Waste and Recyclables containers shall be placed adjacent to a public street or alley, as designated by the Department for the specific property. Containers shall not be placed on private roads or driveways. Containers shall be placed in the area between the sidewalk and the curb, or at the edge of pavement where there is no curb, adjacent to the properties.
- iii. Placement and Removal Times.** In the Central Business District, containers shall be placed for collection no earlier than 5:00 p.m. the day before scheduled collection.
- iv. All Other Rules Apply.** All rules in subsection (5) shall apply to Special Properties, except as modified in this subsection (6)(b), and by substituting “container” for “Cart,” as required by context.

(7) Cart Rules.

- (a) Ownership of Carts.** Carts remain solely the property the contractor providing collection services for the City, and shall not be the property of the owner or occupant of the Eligible Property.
- (b) Care and Replacement of Carts.** The owners or occupants of Eligible Properties are responsible for the proper usage and care of Carts assigned to their Eligible Properties. Carts shall be kept in a clean and sanitary condition. Carts may not be altered in any way. Owners and occupants shall be responsible, at their expense, for the replacement of Carts that are stolen, lost, damaged, or are otherwise rendered unusable. Replacement costs shall be as shown in the Residential Solid Waste and Recycling Cart Regulations published and updated periodically by the Department.
- (c) Carts Stay with Eligible Properties.** Carts shall remain at their assigned Eligible Properties, regardless of any changes in ownership or occupancy of the Eligible Property.
- (d) Cart Exchange.** Owners or occupants of Eligible Properties may exchange their Carts for Carts of different sizes, provided the Cart to be traded in is in the condition required by subsection (7)(b), and the owner or occupant pays the exchange fee shown on the Residential Solid Waste and Recycling Cart Regulations published and updated periodically by the Department.
- (e) Additional Carts.** Each Eligible Property shall be entitled to one Solid-Waste Cart and one Recyclables Cart. Owners or occupants of Eligible Properties may obtain one additional Solid Waste and Recyclables Cart, provided the owner or

occupant pays the exchange fee shown on the Residential Solid Waste and Recycling Cart Regulations published and updated periodically by the Department. The City's collection contractor may impose additional fees for collection of Solid Waste and Recyclables from additional Carts, and the owner or occupant of the Eligible Property shall be responsible for payment of all such additional fees to the contractor.

(8) Special Solid Waste Rules.

(a) Waste Must Fit in Cart. Solid Waste shall be placed only in Solid Waste Carts that are assigned to the Eligible Property. All Solid Waste must fit within the Cart and not extend beyond the upper edge of the Cart to the point where it may fall or blow out. Owners and occupants shall be responsible for compressing Solid Waste to fit, reducing production of Solid Waste, or obtaining a larger or an additional Cart pursuant to subsections (7)(d) or (7)(e), as necessary to comply.

(b) Bulky Item Pickup. Items large enough so that they will not fit alone in an empty Cart, including but not limited to appliances, televisions, and tires; and other single items weighing more than 50 pounds; shall be picked up by special collection, separately from regular Solid Waste. Arrangements for pick-up of such items shall be made by the owner or occupant of the Eligible Property with the collection contractor, according to instructions published and updated periodically by the Department. Such items shall be placed in the area between the sidewalk and curb in front of the Eligible Property premises and separated from the Solid Waste and Recyclables Carts, no earlier than noon the day before scheduled collection, and no later than 6:30 a.m. the day of scheduled collection. The items may not remain at the collection location for more than 24 hours, and if collection is missed, the items must be removed and replaced on the next scheduled collection day. Tire collection without additional charge is limited to four times per Eligible Property, per year, and additional tire collections shall result in the charge of a fee as shown in the Residential Solid Waste and Recycling Regulations published and updated periodically by the Department.

(9) Special Recyclables Rules. Recyclables shall be placed only in Recyclables Carts that are assigned to the Eligible Property. All Recyclables must fit within the Cart and not extend beyond the upper edge of the Cart to the point where it may fall or blow out. Owners and occupants shall be responsible for compressing Recyclables to fit, reduce their production of Recyclables, or obtain a larger or an additional Cart pursuant to subsections (7)(d) or (7)(e), as necessary to comply.

(10) Scavenging Prohibited. Solid Waste and Recyclables placed for collection shall remain the property of the owner or occupant that placed the items until the items are collected by the City's collection contractor. No persons other than the owner or occupant that placed the items for collection, or the City's collection contractor, may take possession of such items.

(11) Placement of Items in Others' Carts Prohibited. No one may place any items in Carts, except the owners or occupants of the Eligible Properties to which the Carts are assigned.

(12) **Penalty.** Any person violating any of the provisions of this Section 13.055 shall be subject to forfeiture in an amount not to exceed \$50 per violation. Each day of a continuing violation shall be a separate violation.

(13) **Regulations.** The Board of Public Works is authorized to create, publish and enforce reasonable regulations to carry out the intents and purposes of this Section, without further approval of the Common Council. The Department shall publish an Eligibility Chart summarizing the eligibility rules contained in this Section.

Section 3. Municipal Code §13.056 is created to read in its entirety as follows:

13.056 Non-Residential Solid Waste or Recyclables Collection. If any part of a non-residential property is within 250 feet of any part of a residential property, then Solid Waste or Recyclables collection at that non-residential property shall take place only between the hours of 7:00 a.m. and 9:00 p.m.

Passed the 4th day of August, 2015.

Approved:

Shawn N. Reilly, Mayor

Attest:

Gina L. Kozlik, City Clerk

For _____ Against _____ Absent _____