

**CITY COUNCIL
CITY OF PORTLAND
Ionia County, Michigan**

Council Member Fitzsimmons, supported by Council Member Baldyga, moved the adoption of the following ordinance:

ORDINANCE NO. 132B

**AN ORDINANCE TO AMEND CHAPTER 30 OF THE CODE OF ORDINANCES
OF THE CITY OF PORTLAND, MICHIGAN**

The City of Portland Ordains:

Section 1. Amendment. Chapter 30, "Solid Waste," Article II, "Collection and Disposal," Sections 30-19 through 30-26, of the Code of Ordinances of the City of Portland, Michigan, are amended to read as follows:

Sec. 30-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act 94 means Public Act No. 94 of 1933 (MCL 141.101 *et seq.*).

Act 279 means Public Act No. 279 of 1909 (MCL 117.1 *et seq.*).

Ash means the residue from the burning of wood, coal, coke or other combustible materials including incinerator ash and residue.

Bulk waste means debris that is too large for placement in a residential refuse container or a recycling container. Bulk waste shall include mattresses, furniture, small appliances, tires and similar items. Bulk waste shall be free of all liquids.

Commercial establishments means all household units containing five or more residential units, all businesses, nonprofit organizations, churches, governmental agencies, and other such institutions that cannot be classified as residential structures.

Commercial refuse means the miscellaneous waste material such as garbage, rubbish and ash resulting from operation of commercial establishments.

Contractor means the entity selected by the city council pursuant to this article that enters into a contract with the city to collect and dispose of bulk waste, domestic refuse, yard waste, recyclables and/or residential refuse.

Debris means the remains of something broken down or destroyed.

Director means the director of the city department of public works.

Domestic refuse means the waste material resulting from the usual routine of housekeeping including garbage, rubbish, and ash.

Garbage means decomposable solid waste which consists of rejected food waste being the waste accumulation of animal, fruit or vegetable matter intended for or used as food or utilized for preparation, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables, and of animal and fowl excrement.

Licensed hauler means a person or entity granted a license to operate as a licensed hauler within the city pursuant to this article and who has paid all applicable license fees and charges.

Municipal refuse means refuse generated by the city or on property owned by the city.

Recyclables means and includes paper, plastics, tin, aluminum, or glass and as may be more specifically defined by rule or regulation.

Recycling container means the container provided by the contractor pursuant to the residential contract approved by the city council.

Refuse means decomposable and nondecomposable solid waste, except body wastes, including garbage, rubbish, ash, incinerator ash, and incinerator residue.

Residential contract means the contract entered into between the city and the contractor pursuant to this article.

Residential refuse means garbage, rubbish, ash or debris from residential structures within the city. Residential refuse shall not include oils and greases, pesticide products, paints, thinners, lacquers, grass clippings, leaves, plants, branches or recyclables.

Residential refuse container means receptacles designated by the manager or specified within a residential contract for use in the collection of residential refuse pursuant to this article.

Residential structure means any building or structure containing ten residential units or less within the city.

Residential unit means a single-family house, and each unit of a condominium, cooperative, duplex house, or apartment building that is used for residential purposes.

Rubbish means and includes nondecomposable solid waste, excluding ash, consisting of both combustible and noncombustible waste such as paper, cardboard, cans, yard clippings and leaves, wood, glass, bedding, crockery, rubber, rags, leather, straw, scrap tires, auto parts, furniture and appliances.

System means the city residential refuse collection and recycling system, which shall include all facilities, equipment, other property and contracts of the city dedicated to and used in connection with providing for the collection of residential refuse, domestic refuse, recyclables, bulk waste, and yard waste from the residential structures in the city.

Yard waste means and includes grass clippings, leaves, plants and branches no larger than four feet in length or three inches in diameter.

Yard waste container means the receptacles designated by the manager or specified within a residential contract for use in the collection of yard waste pursuant to this article.

Sec. 30-20. Purpose and intent of article; findings.

It is the intent of the city council that this article be liberally construed for the purposes of providing a sanitary and satisfactory method of preparation, collection, disposal and recycling of refuse, and for the maintenance of public and private property in a clean, orderly, and sanitary condition to ensure the peace, health, safety, and welfare of the community. In support of this intent, the city council finds that:

(1) There is a need to protect the health, safety and welfare of the residents, businesses, and public and private agencies and visitors to the city by regulating the creation, collection and disposal of refuse within the city; and

(2) The city council has investigated several methods of regulating the creation, collection and disposal of refuse within the city and raising the funds for the cost of such regulation and has determined that the fairest, most economical, most accurate and practical method of apportioning such costs among the residents, businesses, and public and private entities who create such refuse is to:

- a. Enter into a contract with a contractor to provide for the collection and disposal of residential refuse, recycling, yard waste and bulk waste and establish rates and charges to pay the associated costs;
- b. Require commercial establishments to arrange for licensed haulers to provide for the collection and disposal of commercial refuse; and
- c. Enter into a contract or contracts with one or more licensed haulers to provide for the collection and disposal of municipal refuse.

Sec. 30-21. Contract for residential refuse, recycling and yard waste.

(a) *Bids for the residential contract.*

(1) The manager is authorized and directed to solicit sealed competitive bids from persons or entities who are qualified to be a licensed hauler under section 30-25, for a contract between the city and the contractor to provide for the collection, disposal and recycling of residential refuse, recycling, yard waste and bulk waste as provided in this article. The solicitation shall be published at least three weeks prior to the date set for opening bids in the Portland Review and Observer and in such other publications as determined by the manager and sent directly to such persons or entities as the manager deems reasonably necessary to obtain competitive bids.

(2) The manager shall evaluate the bids submitted for the residential contract and deliver copies of the bids, a recommendation regarding which bid, if any, the manager determines to be the best bid, and a statement regarding the qualification of each bidder to be a licensed hauler to city council. The manager shall make his recommendation based upon the following criteria:

- a. The rates proposed in the bid for the users of the system;
- b. The proportionality of the rates among sizes of the residential refuse containers;
- c. The overall quality of the bid and the services to be rendered;
- d. The qualifications and experience of the bidder; and
- e. Such other factors as the city council may determine.

(b) *Bid packet and contract form.* The manager shall prepare a bid packet containing bidding instructions and a description of the services to be provided, an estimate of the number of residential units within the city to be served, and other matters deemed necessary by the manager to advise bidders of the nature of the services required. The bid packet shall include the form of residential contract and a statement that each bidder shall be required to accept the terms of such contract if and when awarded by city council. The residential contract form shall contain at a minimum the following requirements:

(1) Weekly collection of residential refuse and recyclables, including schedules of collection that include days, times and holidays operations;

(2) Monthly yard waste collection from April through October (if accepted by the city as a bid alternate), including schedules of collection that include days, times and holidays operations;

(3) A once annual spring collection of bulk waste (if accepted by the city as a bid alternate) including dates and times;

- (4) Prices, rates and fees per residential unit, including payment and collection procedures, with a different and proportional charge depending on the size of the residential refuse container;
- (5) A per bag charge for the collection of residential refuse exceeding the capacity of a residential refuse container;
- (6) Contractor shall provide to each residential unit within a residential structure an appropriate number of recycling containers and one of at least two sizes of containers (small and large) to be selected at the option of the owner or occupant of the residential unit; and shall provide a yard waste container to each residential structure;
- (7) An option for owner or occupants of residential units within a residential structure to decline service and avoid the applicable user charges, for periods of at least 30 days when the residential unit is unoccupied and a commensurate reduction in charges;
- (8) A contract term of at least two years but no more than five years;
- (9) A nonassignability clause;
- (10) A provision requiring the contractor, at the time of execution of the contract, to post a performance bond acceptable to the manager in the amount of at least \$50,000.00, naming the city as beneficiary, to ensure the contractor's performance under the contract;
- (11) A provision relating to the upgrade or replacement of refuse containers and recycling containers; and
- (12) A provision detailing how residents may contact the contractor, including an office address, phone number and email address.

(c) Award of residential contract; execution of contract; delivery of performance bond. After receiving the bids and the recommendation from the manager, the city council may approve, in its sole discretion, any one of the bids received; provided, the bidder is qualified to be a licensed hauler under this article. The city council shall have the right to reject any and all bids and to waive any irregularity or nonconformity in any bid. The manager shall execute the contract with the bidder selected by city council upon receipt of the performance bond required under this section.

Sec. 30-22. Residential refuse; recyclables and yard waste.

(a) Creation of the system. There is hereby established the city residential refuse collection and recycling system pursuant to Act 94, which shall include all facilities, equipment, other property and contracts of the city dedicated to and used in connection with providing for the collection of residential refuse, recyclables, bulk waste, and yard waste from the residential structures in the city.

(b) Contractor; collection of residential refuse, recyclables, bulk waste, and yard waste; prohibition against scavenging. During the term of the residential contract, the contractor shall collect residential refuse, recyclables, yard waste and bulk waste from residential structures as provided within the executed contract. It shall be unlawful for any person or entity other than the contractor to collect, salvage or scavenge, or otherwise take or remove residential refuse, recyclables, yard waste and bulk waste from residential structures placed for collection at curbside.

(c) Use of residential refuse containers and recycling containers.

- (1) In accordance with the terms of the residential contract, the contractors shall provide each residential unit within a residential structure with a recycling container for each category of recyclables to be collected and a residential refuse container of the size selected by the owner or occupant of the residential unit. From the date such containers are delivered, the owner or occupant of a residential unit within a residential structure shall use residential refuse containers and recycling containers to dispose of all residential

refuse and recyclables generated on such residential structure that is not disposed of through a sink grinder or other environmentally-acceptable means. In the event an owner or occupant of a residential unit within a residential structure has more residential refuse than can be accommodated by his residential refuse container, such owner or occupant may place excess residential refuse in not more than two properly-sealed plastic bags along with the residential refuse container. The contractor shall report to the director the number of bags collected per month from a residential unit, and the director shall cause to be added to the bill for such residential unit an additional charge applicable to the bags.

(2) Residential refuse containers and recycling containers shall not be placed under the eaves of any building or in areas that will allow water to mix with the refuse or recyclables. Except when placed near the curb for weekly collections, residential refuse containers and recycling containers shall not be visible from surrounding properties or the street.

(3) Residential refuse containers and recycling containers damaged through the carelessness of the owner or occupant of the residential unit shall be replaced by contractor and the cost thereof shall be charged to the owner or occupant. The director shall arbitrate any disputes concerning the causation of damage to or loss of residential refuse containers and recycling containers. The contractor at no cost to the owner or occupant of a residential unit will replace residential refuse containers or recycling containers stolen or those damaged by contractor's vehicles.

(d) Collection of residential refuse, recyclables and yard waste; spring collection.

(1) The contractor shall collect residential refuse and recyclables from residential structures as specified within the residential contract.

(2) The contractor shall collect yard waste from residential structures on a monthly basis from April through October as specified within the residential contract. Owners or occupants of residential structures may place yard waste on the berm in front of the residential structure no earlier than one day prior to the day scheduled for collection of yard waste. All grass clippings and leaves shall be placed neatly in bags or residential refuse containers and other yard waste that cannot practicably be placed in bags or residential refuse containers shall be bundled with twine and placed neatly on the berm prior to collection.

(3) The contractor shall collect bulk waste as specified within the residential contract. Owners or occupants of residential structures may place bulk waste on the berm in front of the residential structure no earlier than one day prior to the day scheduled for collection of bulk waste.

(4) The owner or occupant of a residential structure shall be responsible for ensuring that the collection area on the residential structure is free of residential refuse, recyclables and yard waste following collection.

(5) The contractor shall make no changes to operational, collection or material preparation procedures without receiving approval of the city at least 30 days prior to the implementation of any such change. The contractor shall assist the city, either financially or in a manner acceptable to the city, with the dissemination of notices to collection points informing users of the system of the changes.

(6) The contractor shall maintain an office for receipt of service calls and complaints as specified within the residential contract. The office shall be open and available for calls Monday through Friday each week from 7:00 a.m. through 6:00 p.m. The office shall contain at least two telephone lines with a toll-free number for the city and listed under the name of contractor in the local telephone directories. The contractor shall provide an employee attendant in such office during all hours that such office is required to be open

to accept and resolve complaints, orders for special pickup service or to receive instructions. In the event collection activities continue later than 6:00 p.m. on weekdays or anytime on a Saturday, an employee shall remain in service until all route collection activities are completed. The contractor shall also provide a customer service representative who will physically and in-person check-in with the city administrative offices on a weekly basis to handle complaints, concerns or requests.

(9) Fees for residential refuse, recycling services and yard waste shall be established within the residential contract.

Sec. 30-23. Commercial refuse.

It shall be unlawful for the owner or occupant of a commercial establishment to accumulate refuse on the premises of such establishment or to dispose of refuse other than through the services of a licensed hauler authorized pursuant to this article. Should food materials be disposed of through sink grinding systems, the amounts may not exceed limits established in chapter 40, article III, division 2, of this code of ordinances, as amended.

Sec. 30-24. Miscellaneous regulation of refuse and recyclables.

(a) *Burning or burying.* No person shall throw or discard any refuse or debris upon the ground or bury the same on any premises, public or private, or burn the same in any manner within the city limits. Yard waste may be composted if done so in a manner that does not produce odors offensive to surrounding properties and as long as such production is not offensive in view to surrounding properties or the street. No burning shall be permitted.

(b) *Depositing or scattering.* No person shall deposit or scatter refuse or debris on any public street, alley or public property within the city.

(c) *Cleanliness.* It shall be the duty of every owner or occupant of any building, residential or commercial to maintain such structures in a clean and orderly manner and to dispose of all refuse and debris in compliance with city ordinances and any rules and regulations issued thereunder.

Sec. 30-25. License for licensed haulers.

(a) It shall be unlawful for any person or entity to collect, disturb or transport refuse for a fee on the streets, alleys or public places of the city without first obtaining a license, as provided under this section, to be a licensed hauler.

(b) The city council shall establish by resolution, after receiving recommendations from the manager, regulations, procedures and forms to permit persons or entities to obtain a license to collect, transport and dispose of residential refuse and commercial refuse within the city. The contractor shall be the only person or entity licensed to transport residential refuse. There shall be no limit on the number of persons or entities licensed to transport commercial refuse. Each person or entity approved as a licensed hauler for commercial refuse shall furnish a performance bond in the amount as currently established or as hereafter adopted by resolution of the city council from time to time, and file with the city clerk copies of all required insurance.

(c) The city, after notice and a hearing, may revoke the license of any licensed hauler who fails to comply with the requirements of this article or applicable state or federal laws. The license of such licensed hauler shall not thereafter be granted or renewed until such time as the person or entity has remedied all violations and has demonstrated compliance with the requirements of this article and applicable state and federal laws.

Sec. 30-26. Enforcement of Article; adoption of rules and regulations; authority of certain officers to issue citations.

The enforcement of this article shall be the duty of the manager, who is hereby authorized to adopt reasonable rules and regulations subject to the approval of the city council to carry out the intent of this article. Department of public works inspectors and police officers are authorized to issue civil infraction citations for violations of any section of this article.

Section 2. Effective Date. This ordinance shall take effect 10 days after its adoption or upon publication, whichever occurs later.

Yeas: Fitzsimmons, Baldyga, VanSlambrouck, Johnston, Barnes

Nays: None

Absent: None

Abstain: None

ORDINANCE DECLARED ADOPTED.

Dated: July 17, 2017

James E. Barnes, Mayor

Monique I. Miller, City Clerk

Introduced: July 5, 2017

Adopted: July 17, 2017

Published: July 23, 2017

Effective: July 27, 2017

CERTIFICATION

I certify that this is a true and complete copy of the ordinance adopted at a regular meeting of the Portland City Council held on July 17, 2017.

Date: July 17, 2017

Monique I. Miller, City Clerk