

ORDINANCE NO. 08-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, RELATING TO UNIVERSAL MANDATORY SOLID WASTE COLLECTION SERVICE IN THE CITY OF COVINGTON; AMENDING CHAPTER 8.15 OF THE COVINGTON MUNICIPAL CODE AND RELATED ORDINANCES REGULATING SOLID WASTE; AND PROVIDING FOR AN EFFECTIVE DATE, SEVERABILITY, AND SUMMARY PUBLICATION.

WHEREAS, the City of Covington (“City”) has broad authority under the Washington State Constitution, Article XI, Section 11 and under state statutes, including Titles 35 and 35A of the Revised Code of Washington (RCW), to enact regulations the city council determines are necessary and appropriate to promote public health, safety, and general welfare within the City; and

WHEREAS, the regulation of common nuisance activities is a necessary governmental service to protect the public health, safety, and general welfare and to promote economic growth, environmental compliance, and aesthetic values in the community; and

WHEREAS, the accumulation of garbage and refuse on property and illegal dumping on private and public property, including storm ponds and green belts, can lead to the harboring of vermin, the creation of odors, the spread of litter to adjacent private and public property, and other health, safety, and environmental problems; is detrimental to neighborhood quality, stability, and property values; can interfere with the city’s compliance with its National Pollutant Discharge and Elimination System (NPDES) permit; and is unsightly and contrary to the aesthetic values of the community and therefore is detrimental and contrary to the aforementioned goals; and

WHEREAS, the City has determined that a universal, mandatory solid waste collection requirement would be the best mechanism to prevent the harms described above; and

WHEREAS, the entire City is served by a contracted solid waste collector; and

WHEREAS, the city council has determined that it will promote the public health, safety, and general welfare, and will be in the best interests of the City and the City’s property owners, residents, tenants, and general public, to enact the regulations in this ordinance requiring that solid waste collection service is mandatory for all premises in the City, commercial and residential, that create, generate, or accumulate solid waste and refuse;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8.15 CMC Amended. Chapter 8.15 of the Covington Municipal Code (CMC) and Ordinance No. 04-02, as amended by Ordinance No. 04-13, are amended as follows:

8.15.010 Definitions.

For the purposes of this chapter, unless otherwise defined, the following shall have the intended definitions:

(1) "Collector" or "collector of solid waste and/or recyclables" means the company(ies) with which the City has contracted to collect, haul, or dispose of solid waste, recyclables, and/or yard waste.

(2) "Commercial" means any establishment or business that is not residential in nature, including hotels/motels, churches, nonprofit organizations, Federal, State and local government-owned facilities.

(3) "Person" means every person, firm, partnership, association, institution, and corporation. The term shall also mean the occupant and/or the owner of the premises for which service mentioned in this chapter is rendered.

(4) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials, and yard waste. (RCW 70.95.030(22)).

(5) "Yard waste" means compostable organic materials resulting from landscape maintenance and pre- and post-consumer organic wastes including, but not limited to, leaves, brush, tree trimmings, grass clippings, weeds, shrubs, garden waste, and food scraps. Branches or roots must be smaller than four (4) inches in diameter and shorter than four (4) feet in length. Yard waste does not include stumps, demolition wood, large amounts of dirt, rocks, glass, plastics, metal, concrete, sheet rock, asphalt, or any other nonorganic land-clearing debris. (The collector may change the range of materials handled as yard waste upon the approval of the City to reflect those materials allowed by the Seattle-King County Health Department to be treated as such for the frequency of collection provided by the collector.)

8.15.020 Purpose.

The purpose of this chapter is to prevent harm to the health and safety of the public and to promote the public health, safety, and general welfare by providing for the regulation of solid waste collection and disposal and maintaining consistent and reliable solid waste services under the exclusive supervision and control of the City.

It is expressly the purpose of this chapter to provide for and promote the health of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

It is the specific intent of this chapter to place the obligation of complying with its requirements upon waste generators, collectors, and/or operators of solid waste handling sites, and no provision of, nor term used in this chapter is intended to impose any duty whatsoever upon the City nor any of its officers or employees, for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended to be, nor shall be construed to create or form the basis for any liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of any person subject to this chapter to comply with the provisions herein, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City.

8.15.030 Hauling restrictions.

~~It is unlawful for any person, other than a contractor or collector having a contract for solid waste and recyclable material collection and disposal with the City, to collect, haul, or dispose of solid waste within the City. Provided, however, nothing in this section shall be construed to prohibit (1) portions of the waste stream that are being recycled through permitted commercial recyclers; or (2) a residential occupant transporting, on a nonregular or occasional basis, surplus accumulations of rubbish or garbage from his/her residence to an approved disposal site. (Ord. 04-13 § 1 (Exh. 1))~~

8.15.040 Contract for solid waste collection services – Terms.

(1) The City shall let a contract or contracts to provide for the collection of all solid wastes and yard waste within the City. The details of such a contract or contracts shall be agreed upon after negotiations and the City Council's action thereon shall be final. Such negotiations may be preceded by a call for bids or proposals if determined to be necessary and at the discretion of City Council. Such contract shall obligate the collector to pick up solid wastes and yard waste in the City in accordance with this chapter and shall provide for the collector to be paid for its services out of fees for collection.

(2) Every such contract for solid waste and yard waste collection also shall contain a provision that such contract may not be assigned by the collector, or the responsibilities thereunder transferred, except with the prior consent of the City.

(3) Such contract(s) shall be for such term as the City Council shall find is in the best public interest and may contain provisions, upon proper standards, for adjustments in service rates.

(4) Such contract(s) shall contain suitable provisions permitting the forfeiture of the contract for nonperformance or violation of such contract by the collector. (Ord. 04-13 § 1 (Exh. 1))

8.15.050 Collection – Requirements.

(1) Solid waste.

(a) Solid waste collection required. The collector shall collect, remove, and dispose of all solid waste from the premises, whether residential, commercial, industrial, or otherwise, existing within the City upon such periodic schedule as included in the collection contract. All persons and properties within the city are required to use the solid waste collector(s) of the city and it shall be unlawful for any person, other than those duly authorized by the city, to haul solid waste through the streets of the city. Pursuant to the

definition of “solid waste” in this chapter, solid waste collection shall also include the collection of recyclable materials.

(b) Solid waste minimum service level. All persons and occupied property shall use and be responsible for at least the minimum level of solid waste collection service, including recycling, and associated charges for residential or commercial service, as applicable, offered by the collector unless exempted from such requirement under subsection (3) of this section. The collector will automatically bill the residential or commercial customer for such minimum level of service if the customer does not sign up for service within thirty (30) days of occupying a property in the city or the effective date of the enacting ordinance of this section, whichever is later.

(2) Yard waste service level. At minimum, the collector shall offer biweekly curbside yard waste collection service to city customers on a year-round basis and pursuant to any other terms negotiated in the contract with the city. Yard waste collection is an optional service for all persons and occupied property.

(3) Exception to solid waste collection requirement.

(a) If one property owner owns adjacent properties on different utility accounts, one solid waste service may be shared based upon a written request to and approval from the city and the collector.

(b) If a residential customer owns a business in the city limits and the solid waste produced at the residence is being collected at the business, the residential account may be exempted from mandatory service based upon a written request to and approval from the city and the collector.

(c) If the collector is unable to provide solid waste collection service due to inadequate clearance for the disposal vehicles, a customer may file a written request with the city for an exemption from solid waste collection services. Such exemption must be approved by the collector and shall be conditioned upon agreement that solid waste will be disposed of properly on a weekly basis at a permitted landfill by the customer.

(d) If upon satisfactory evidence on an annual basis that a person or property produces no solid waste, the respective account may be exempted from mandatory service based upon a written request to and approval from the city and the collector.

(4) Self-haul. Nothing in this section shall prohibit the limited and occasional hauling of solid waste, recyclable materials, or yard wastes by a customer from its specific property to an approved King County solid waste, recyclable materials, or yard waste collection site. Occasional haulers are not exempt from the mandatory solid waste collection service and payment requirements and are responsible for any associated fees for such collection site services, as applicable.

(35) All solid waste that is generated and/or placed for collection and collected within the City for delivery to the King County solid waste system for disposal shall be in compliance with the Resource Conservation and Recovery Act as amended (42 U.S.C. 6901 et seq.), Chapter 70.95 RCW, King County Board of Health Rules and Regulations No. 8, and all other applicable Federal, State, and local environmental health laws, rules, or regulations.

(6) The provisions of this section shall apply to all persons within the City, including the collector, and any other persons authorized by this chapter or other laws to collect waste within the City for disposal.

8.15.060 Rates.

(1) The rates for solid waste and yard waste collection ~~handling~~-service shall be calculated in accordance with such collection contract(s) for solid waste collection service as the City may enter into.

(2) In the event of any change in rates, customers shall be notified in writing of such change in such manner and with such time schedule as may be established by applicable law.

(3) The City shall maintain, publish, and make available to the public a current schedule of rates for solid waste collection ~~handling~~-service. Publishing may occur via the City's website. (Ord. 04-13 § 1 (Exh. 1))

8.15.070 Billing.

(1) The collector shall bill for all solid waste and yard waste collection services in accordance with the collection contract entered into with the City. All costs related to billing and bill collection will be paid by the collector.

(2) Charges for any special services not covered in the collection contract shall be determined by the mutual agreement of the City and the collector.

(3) The bills provided by the collector will be due in accordance with guidelines established by the collector, which may include penalties for late payment.

(4) The collector may use a collection agency, a lien process, or any other available legal method to recover the past due balance from the customer. (Ord. 04-13 § 1 (Exh. 1))

8.15.080 Improper disposal.

(1) It is unlawful for any person to bury, burn, dump, collect, or in any other manner dispose of solid waste and/or yard waste upon any street, alley, public place, or private property within the City.

(2) It is unlawful to deposit any solid waste and/or yard waste in a solid waste and/or yard waste container owned or maintained on the premises of another unless invited, licensed, or otherwise privileged to do so.

(3) It is unlawful for any person to burn any solid waste and/or yard waste, except brush, grass, weeds, and cuttings from trees, lawn, or gardens, in any manner not authorized by the applicable provisions of the City's fire code.

(4) Whenever solid waste and/or yard waste dumped in violation of this chapter contains three (3) or more items bearing the name of one individual, there shall be a rebuttable

presumption that the individual whose name appears on such items committed the unlawful dumping. (Ord. 04-13 § 1 (Exh. 1))

(5) Any person violating this section shall be guilty of a misdemeanor under CMC 1.30.030 and any person convicted thereof may be punished by a fine of not more than \$500.00 or by imprisonment for no more than ninety (90) days or by both such fine and imprisonment.

8.15.090 Administrative and enforcement responsibility.

The administration and enforcement of this chapter shall be the responsibility of the Director of Public Works or his/her designee. The Director or his/her designee may make inspections to enforce this chapter and may notify the person or collector that they are in violation of this chapter. The Director may issue any written rules that are consistent with this chapter and which he/she finds are necessary for the proper administration of this chapter. (Ord. 04-13 § 1 (Exh. 1))

8.15.100 Violations.

Any person violating any part of this chapter shall be deemed to have created a public nuisance pursuant to CMC 1.30.030. Said violations may be enforced pursuant to Chapter 1.30 CMC. (Ord. 04-13 § 1 (Exh. 1))

8.15.110 Plan adopted.

The final 2001 King County Solid Waste Management Plan dated November 2001, including Appendices Volumes 1 and 2, is hereby designated and adopted as the City's Comprehensive Solid Waste Management Plan, except as otherwise set forth herein or by City ordinance. (Ord. 04-13 § 1 (Exh. 1); Ord. 04-02 § 1. Formerly 8.15.010)

8.15.120 Determining levels and types of service.

Pursuant to RCW 70.95.160, the City of Covington hereby determines that King County shall not exercise any powers regarding the levels and types of service of any aspect of solid waste handling within the corporate limits of the City as now exist or as may hereafter be amended. The level of and types of service for any aspect of solid waste handling shall be determined by City ordinance and not as set forth in any County regulation or ordinance as now exists or as may hereafter be adopted, including without limitation, the Comprehensive Solid Waste Management Plan. (Ord. 04-13 § 1 (Exh. 1); Ord. 04-02 § 2. Formerly 8.15.020)

Section 2. New Section. A new section 8.15.025 is added to Chapter 8.15 CMC, as follows:

8.15.025 Mandatory removal and disposal.

The maintenance of health and sanitation require, and it is the intention of this chapter to make, the collection, removal and proper disposal of solid waste within the city by the collector mandatory and universal. This section does not apply to portions of the waste stream that are being recycled through private, permitted recyclers or yard waste collection.

This section does not apply to any account which has received a written exception to solid waste collection service from the City pursuant to the terms of this chapter.

Section 3. New Section. A new section 8.15.075 is added to Chapter 8.15 CMC, as follows:

8.15.075 Accumulation of solid waste.

It shall be the duty of the owner of any residence or commercial establishment to ensure that all solid waste that is created or accumulated is deposited into an approved container and is collected by a city-contracted collector.

Section 4. Ordinance Controls. All ordinances and sections of the Covington Municipal Code in conflict with this ordinance are, to the extent of the conflict, superseded and have no further force or effect.

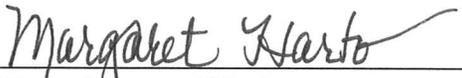
Section 5. Severability. Should any section, subsection, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be held invalid or unconstitutional by a court of competent jurisdiction, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6. Corrections. Upon the approval of the city attorney, the city clerk is authorized to make any necessary non-substantive, technical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 7. Summary Publication. Publication of this ordinance in the official newspaper of the City shall be by summary publication consisting of the ordinance title.

Section 8. Effective Date. This ordinance shall take effect and be in force on and after July 1, 2016, which date is more than five (5) days after its passage and publication.

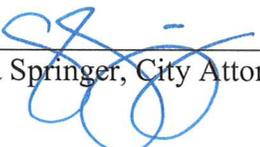
PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON,
at a regular meeting thereof this 13th day of October, 2015.



Mayor Margaret Harto

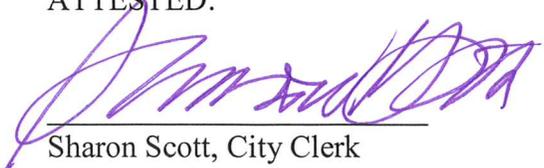
PUBLISHED: October 23, 2015
EFFECTIVE: July 1, 2016

APPROVED AS TO FORM:



Sara Springer, City Attorney

ATTESTED:



Sharon Scott, City Clerk