

# City of Bovey

## SOLID WASTE ORDINANCE Ordinance No. 11-0706

WHEREAS, the City Council of the City of Bovey has the authority to establish regulations to promote and protect the public health, safety and welfare, and this ordinance is declared to be an exercise of the city's police powers; and

WHEREAS, this ordinance is intended to promote the public health, safety and welfare and to protect the interests of city residents by regulating the accumulation, storage, collection, removal and disposal of solid waste so that conditions that create fire, health or safety hazards, harbor undesirable pests, or impair the aesthetic appearance of neighborhoods are prevented and eradicated.

WHEREAS, the public policy and health of the City of Bovey requires adequate solid waste disposal practices to avoid solid waste that is unhealthy, unsanitary, and hazardous to the health of city residents and city employees charged with responsibility for collection of solid waste.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bovey:

### Section 1. Definitions

For the purposes of this ordinance, the following words, terms and phrases shall have the meanings set forth:

- A. Bulky Waste. All large, heavy or otherwise difficult to handle wastes with weights and/or volumes greater than that allowed for an acceptable container, including, but not limited to, appliances, hot water heaters, washers, dryers, etc. All bulky waste must consist of a mostly metal construction. Bulky waste does not include furniture, mattresses or carpeting. Bulky waste is often referred to as white goods.
- B. Commercial Building. Any building or part of a building, used for any business enterprise, commercial enterprise, industrial enterprise or institutional establishment, including a building containing more than three (3) rental dwelling units.
- C. Commercial Solid Waste. All solid waste which results from the operation of any business enterprise, including commercial waste, industrial waste, institutional waste, or waste from the cleanup or maintenance of property rental operations. For the purposes of this ordinance, commercial solid waste shall also include solid waste generated from a building containing more than three (3) rental dwelling units.
- D. Container. A covered receptacle designed and intended for the storage of solid waste.
- E. Dwelling Unit. Any room or group of rooms located within a building and forming a single habitable residence with facilities which are used or intended to be used for living, sleeping, bathing, cooking and eating.
- F. Demolition Material. Any waste resulting from the complete or partial destruction or leftover waste from construction of any man-made structure such as but not limited to a house, apartment, commercial building or industrial building. This would include lumber, insulation, paneling, carpeting, sheetrock, concrete, asphalt, etc.

- G. Dumpster. A large metal solid waste bin, often of a kind that is emptied or transported to a solid waste facility by a specially equipped truck.
- H. Hazardous Waste. Any material, solid waste, chemical or substance determined to be hazardous by state or federal regulations or may be potentially hazardous to any person, to property, or to the environment.
- I. May. Permissive.
- J. Occupant. The person in actual possession of the property, premises, building or dwelling unit, whether or not the owner.
- K. Owner. The legal or equitable owner of record who has a right to participate in controlling the property, premises, building or dwelling unit, whether or not the owner.
- L. Person. Any individual, firm, association, partnership or corporation.
- M. Residential Building. Any building, or part of a building, that contains one (1) or more dwelling units, but not more than three (3) rental dwelling units.
- N. Residential Solid Waste. All household solid waste originating from a dwelling unit within the city and generated by the owner. For the purposes of this ordinance, residential solid waste shall include solid waste generated from a building containing three (3) or less rental dwelling units.
- O. Shall. Mandatory.
- P. Solid Waste. All solid and semisolid wastes, including garbage, litter, trash, refuse and rubbish.
- Q. Yard Waste. Vegetative matter resulting from landscaping and garden maintenance, including, but not limited to, leaves, grass clippings, branches, brush, shrubbery, trees and flowers.

## **Section 2. Administration and Enforcement**

Enforcement of the provisions of this ordinance shall be under the jurisdiction of the City Council. A representative of the City Council, including the Police Department, or the Public Works Department, shall have the authority to make inspections, determine violations, and take action to enforce the provisions of this ordinance.

## **Section 3. Unlawful Disposal of Solid Waste**

- A. It shall be unlawful for any person to leave, place, throw or deposit, or cause or permit any other person to leave, place, throw or deposit, in or upon any street, alley, sidewalk, public place, public property, or private property within the city limits, solid waste of any kind.
- B. It shall be unlawful for any person to leave, place, throw or deposit within the city limits, or cause or permit any other person to leave, place, throw or deposit within the city limits, solid waste of any kind for the purpose of collection and disposal by the city when the solid waste is generated at a location outside the city limits or from a location where the city does not collect solid waste.

- C. It shall be unlawful for any person to leave, place, throw or deposit within the city limits or cause or permit any other person to leave, place, throw or deposit within the city limits, any yard waste unless such yard waste is generated at a location within the city limits. In addition, no tree service contractor, landscaping contractor, nursery or similar business enterprise shall leave, place, throw or deposit any yard waste within the City of Bovey without prior approval from the City Council.
- D. It shall be unlawful for any person to bury or burn solid waste within the city limits.
- E. It shall be unlawful for any person to allow an accumulation of solid waste which creates a fire, health or safety hazard, or harborage for rodents or insects.
- F. No person shall deposit in a solid waste container, or otherwise set out for solid waste collection and disposal by the city, or its authorized representative, any waste consisting of demolition material, tires, or hazardous waste.

#### **Section 4. Duty of Owner**

- A. The owner of any premises within the city, whether business, commercial, industrial, institutional or residential premises, shall maintain the premises in a clean, orderly, safe and sanitary condition, free from any accumulation of solid waste which creates a fire, health or safety hazard, or harborage for rodents or insects.
- B. The owner of any premises within the city shall ensure that all solid waste is stored on the premises in containers complying with the requirements of this ordinance. All waste stored outside a building shall be contained in plastic bags and stored in solid waste containers complying with the requirements of Section 6.
- C. The owner of any premises within the city shall cover and/or secure all solid waste containers, keeping the storage area and area surrounding any containers in a clean, orderly and sanitary manner and preventing the waste from being scattered by animals, wind or other means. In the event that any solid waste stored in a plastic bag or other container becomes torn, spilled or otherwise scattered, the owner shall be responsible for clean-up of the area and may be subject to a violation notice.
- D. The owner of any premises within the city shall not store any solid waste, including bulky waste, outside for more than seven (7) days.
- E. The owner of any premises within the city shall maintain a clear unobstructed path from the alley or street to the solid waste containers, including dumpsters. This includes but is not limited to clearing brush or shoveling snow.
- F. The owner of any residential building shall provide the premises with a maximum number of (2) two covered solid waste containers complying with the requirements of Section 6 to adequately store the solid waste generated by the occupants of the premises between collection days. Any additional solid waste containers must have a solid waste tag attached to the container before collection will be made. Solid waste tags may be purchased from the City Clerk. Failure to tag an additional container may result in a violation notice.
- G. The owner of any commercial building that generates more than one (1) cubic yard of solid waste between collection days shall provide the premises with a dumpster(s) complying with the requirements in Section 6 and of sufficient size to contain all the solid waste generated by the occupants of the premises between collection days.

- H. The owner of any commercial building that generates less than one (1) cubic yard of solid waste between collection days shall provide the premises with a maximum number of (2) two covered solid waste containers per unit complying with the requirements of Section 6 to adequately store the solid waste generated by the occupants of the premises between collection days. Any additional solid waste containers must have a solid waste tag attached to the container before collection will be made. Solid waste tags may be purchased from the City Clerk. Failure to tag an additional container may result in a violation notice.
- I. The owner of any premises shall not allow the accumulation of solid waste on the premises to such an extent that the solid waste creates a fire, health or safety hazard, or harborage for rodents or insects.

## **Section 5. Collection and Disposal of Solid Waste**

- A. Collection of Solid Waste. The city, or its authorized representative, shall collect and dispose of residential and commercial solid waste once a week. The collection day shall be every Tuesday, unless inclement weather or vehicle break down occurs, at which time collection will be made as soon thereafter as possible.
- B. Commercial Solid Waste Collection and Disposal. The city, or its authorized representative, shall provide commercial solid waste collection and disposal services from eligible commercial buildings. The city, or its authorized representative, is not required to collect any solid waste that does not comply with the requirements of this ordinance.
- C. Residential Solid Waste Collection and Disposal. The city, or its authorized representative, shall provide residential solid waste collection and disposal services from eligible residential buildings. The city, or its authorized representative, is not required to collect any solid waste that does not comply with the requirements of this ordinance.
- D. Duty of Occupant
  - 1. The occupant shall place all approved solid waste at the designated collection site for collection and disposal by the city, or its authorized representative, no later than 6:30 a.m. on the day of collection, nor earlier than the day prior to collection if the collection site is adjacent to a city street. The occupant shall retrieve all solid waste containers from any street side collection site and return the containers to the storage area by 10:00 p.m. on the day of collection.
  - 2. The occupant shall place all approved solid waste for collection by the city, or its authorized representative, within five feet (5') of the edge of the traveled portion of the alley if an alley is available, or if there is no alley, within five feet (5') of the edge of the street, or at such other place as approved or designated by the City or its authorized representative.
- E. It shall be the responsibility of the occupant to wash and treat with disinfectant, solid waste containers as often as is necessary to prevent nuisance.
- F. No solid waste shall be placed in solid waste containers without first being properly prepared, drained of liquid, and tied before being placed in the solid waste containers.
- G. Bulky and Yard Waste Collection and Disposal. The City or its authorized representative may provide for the collection and disposal of bulky and yard waste materials. The owner shall be required to pay for all bulky waste material according to the fee schedule set forth

for solid waste materials. Payment for bulky waste material shall be made to the City Clerk prior to the owner placing such bulky waste material at the locations set forth in Section 5, subsection D, paragraph 2, for solid waste. All bulky waste which has a latching mechanism which could cause entrapment shall be removed by the owner prior to placing such bulky waste outside the residence. There will be no charge for the collection and disposal of yard waste. Furniture, mattresses and carpeting does not qualify as bulky waste and must be disposed of by the owner by proper legal means.

## **Section 6. Containers Required**

### **A. Commercial Buildings/Commercial Solid Waste.**

1. The owner responsible for the condition of property used as any business enterprise and generating commercial solid waste shall have and use solid waste containers, as required in Section 4, of a number and size sufficient to contain all solid waste generated from the location.
2. The owner of a building containing more than three (3) rental dwelling units shall supply the building with solid waste containers, as required in Section 4, of sufficient number and size to contain all solid waste generated from the location.
3. All dumpsters in which solid waste is placed shall be made of metal, rodent proof, have a cover, and have a drain on the bottom.
4. All dumpsters shall be maintained in a clean and sanitary condition, and in good repair.
5. All dumpsters shall be placed on a concrete or asphalt slab constructed by the owner at the owner's expense. Said slab shall have a minimum thickness of 2 inches and shall adjoin the alley as to keep the dumpster from sinking into the soil.
6. Any container that does not conform to the provisions of this section must be promptly removed and replaced with a container meeting the requirements of Section 6, upon receipt of notice to that effect from the city.
7. Commercial rates will be reviewed annually and property owners and/or owners responsible for the condition of the property shall be notified by November 30<sup>th</sup> of the commercial rate for the following year.

### **B. Residential Buildings/Residential Solid Waste.**

1. The owner of a property shall have and use:
  - a. Bags of sufficient strength and tightly secured to contain all solid waste generated from the location without tearing or breaking when lifted. Bags, however, may not be stored outside a building unless placed in solid waste containers meeting the limitations set forth in subsection 2.
  - b. Solid waste containers of a number and of sufficient size to contain all solid waste generated from the location, and meeting the limitations set forth in subsection 2.
  - c. If the solid waste generated from the location exceeds the maximum number of containers allowed, the owner will be required to provide additional solid waste

containers, meeting the limitations set forth in subsection 2. Any additional solid waste containers must have a solid waste tag attached to the container before collection will be made. Solid waste tags may be purchased from the City Clerk. Failure to tag an additional container may result in a violation notice.

2. All containers in which solid waste is placed shall be made of metal or plastic, insect-proof, rodent-proof, have a tight-fitting, watertight cover and shall have at least one (1) lifting handle. A container shall be of such size and shape as to be easily handled by one person, and shall have a maximum capacity of 45 gallons and not exceed 50 pounds when full.
3. All containers shall be maintained in a clean and sanitary condition, and in good repair.
4. Any container that does not conform to the provisions of this section, or that may have ragged or sharp edges or any other defect that will hamper or injure the person collecting the contents thereof, or is likely to cause bags to tear, must be promptly removed and replaced by a container meeting the requirements of Section 6, Subsection B upon receipt of notice to that effect from the city.
5. Residential rates will be reviewed annually and property owners and/or owners responsible for the condition of the property shall be notified by November 30<sup>th</sup> of the residential rate for the following year.
6. Use of unapproved containers such as but not limited to, wooden containers, screen/wire containers or 55 gallon drums for the storage and collection of solid waste are prohibited. The owner shall remove and replace such unapproved containers. Replacement containers shall meet the limitations set forth in Section 6, subsection B.

## **Section 7. Notice**

- A. Upon discovery of a violation of this ordinance, the person or persons in violation shall be given written notice describing the violation, and if the city is seeking abatement of the violation, the city shall give the violator three (3) days from the service of the notice to abate the violation.
- B. The notice shall contain the following information:
  1. Date;
  2. Name of the person(s) to whom the notice is given, however, if the name of the owner cannot reasonably be determined, it will be deemed sufficient for the notice to be given to "Owner";
  3. Address and/or parcel number of the real property that is subject to the notice;
  4. Nature of violation and the action required, including the period of time in which the action is required to be accomplished measured from the time the notice is given;
  5. Statement indicating the opportunity for a hearing or the date of any court appearance required;

6. If the city is seeking abatement of the violation, a statement indicating that the notice becomes final three (3) days after notice is given if a hearing is not requested in writing and delivered to the city before the end of the three (3) day period;
  7. Statement briefly indicating what action can be taken by the city if the notice is not complied with; and
  8. Name, address and telephone number of the enforcement authority.
- C. Service of this notice is deemed sufficient if given by:
1. Sending a copy by registered or certified mail, return receipt requested, to the person(s) to be notified; or
  2. Delivering a copy personally to the person(s) to be notified; or
  3. Leaving a copy at the residence of the person(s) to be notified.
- D. It shall be the responsibility of the violator to abate the existing violation after receipt of a notice. If the notice is not complied with, the city may take appropriate action to abate the violation, and the cost thereof shall be assessed pursuant to Section 9, or the city may elect to notify any other owner of the premises of the violation, and order that owner to abate the violation. The owner notified by the Council shall be entitled to the same notice and period of time to abate the violation that was originally given to the violator. If the owner receiving notice from the Council does not then abate the violation, the city may take appropriate action to abate the violation and assess the costs of the abatement pursuant to Section 9.
- E. Enforcement of this ordinance against any owner of the property shall not in any manner diminish the ability of the city to enforce the ordinance against any other owner of the real property.
- F. This ordinance shall not prohibit a landlord from including a provision in a lease agreement to collect any enforcement costs imposed by the city against the landlord due to the actions or inactions of a tenant.

## **Section 8. Hearing**

- A. In the event that a person receiving a notice seeking abatement of a violation does not believe that he or she is in violation of this ordinance, the person may request a hearing before the City Council.
- B. The request for a hearing before the City Council must be in writing and delivered to the City Clerk's Office within three (3) days after the date the notice is given.
- C. A hearing will be scheduled to be held within twenty (20) days of receipt of the written request.
- D. At the hearing, the person will be given the opportunity to appear, with or without counsel, to present such evidence to the City Council that reasonably relates to whether the presence of the solid waste on the real property is in violation of this ordinance. Each person appearing will also be given the opportunity to cross-examine any opposing witnesses and present evidence and arguments.

## **Section 9. Abatement of Violation by the City; Collection of Costs**

- A. The city may take action to abate the violation from the real property if any person who has been provided written notice fails, neglects or refuses to comply with the notice; and has not requested a hearing, or, if a hearing was requested, the City Council affirmed the notice; and the notice is not being reviewed by the county circuit or superior court. The city may abate the violation by contract with a contractor or with city personnel and equipment.
- B. The owner of the real property shall be jointly and severally responsible for the city's cost for the abatement of the violation under this ordinance. The costs for abatement shall be Fifty Dollars (\$50.00) or the actual cost of the work performed by a city department or contractor, whichever is greater.
- C. The City Clerk shall send a bill to the person violating this ordinance for the city's cost for the abatement of the violation. Payment shall be due fifteen (15) days after the billing date.
- D. If the bill is not paid within forty-five (45) days of the due date, the city may proceed under Section 10 or annually levy an assessment equal to such unpaid bills as of September 1 of each year, against each lot or parcel of land so served for which bills are unpaid. The assessment may also include a penalty not to exceed 10% of the amount thereof and shall bear interest at a rate not exceeding 6% per annum as the council may determine on an annual basis. Such assessment shall then be certified to the Itasca County Auditor and shall be collected and remitted to the City Treasurer in the same manner as assessments for local improvements.

## **Section 10. Penalty**

Any violation of this ordinance is a petty misdemeanor and the violator may be subject to a fine in an amount not more than Fifty Dollars (\$50.00) for each offense. If the violation is of a continuing nature, each day of failure to comply with the provisions of this ordinance shall constitute a separate offense. The City in its discretion may choose not to assess costs as provided in Section 9, and may alternatively bring charges in district court against the violator under this section.

## **Section 11. Ordinances**

The following ordinances are hereby repealed: Ordinance No. 9-2-86, Ordinance No. 3-05-90-1, and Ordinance No. 11-7-94. All other ordinances and parts of ordinances to the extent they are inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

## **Section 12. Severability**

If any provision, clause, sentence, or portion of this ordinance is held invalid by a court of law, such invalidity shall not affect other provisions of the ordinance which can be given effect without the invalid provisions.

**Section 13. Fee Schedule**

The City of Bovey Solid Waste Fee Schedule shall be reviewed once per year at a minimum for residential and commercial accounts. Review shall be made by the Public Utilities Committee or an authorized representative of the City. All changes to the solid waste fee schedule shall be established by ordinance by the City Council and such Ordinance shall contain a date the changes will go into effect. The Solid Waste Fee Schedule shall be as attached until such time as amended by Ordinance.

**Section 14. Assessments**

In the event that an owner of property shall fail to pay the fees for collection of solid waste and bulky waste removal, the City Council may annually levy an assessment equal to such unpaid cost as of September 1 of each year, against each lot or parcel of land so served for which the service charge is unpaid. The assessment may also include a penalty not to exceed 10% of the amount thereof and shall bear interest at a rate not exceeding 6% per annum as the council may determine on an annual basis. Such assessment shall then be certified to the Itasca County Auditor and shall be collected and remitted to the City Treasurer in the same manner as assessments for local improvements.

**Section 15. Effective Date**

This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Minnesota.

This ordinance approved by the Bovey City Council on July 6, 2011.

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City Clerk Beverly Dahlgren

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Mayor Deborah Trboyevich