

**MUNICIPAL SOLID WASTE ORDINANCE**  
**(ORDINANCE FOR CONTRACTED AND MUNICIPAL COLLECTION)**

OF

BOX ELDER, PENNINGTON COUNTY, SOUTH DAKOTA

ORDINANCE

**AN ORDINANCE AMENDING CHAPTER 51, COLLECTION OF GARBAGE, AMENDING THE MUNICIPAL ORDINANCES OF THE CITY OF BOX ELDER, MEADE/PENNINGTON COUNTY, SOUTH DAKOTA.**

**NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BOX ELDER, SOUTH DAKOTA THAT TITLE V PUBLIC WORKS, CHAPTER 51, BE AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:**

**TITLE 51 COLLECTION OF GARBAGE**

**51.10: SHORT TITLE**

This Ordinance shall be known and referred to as the "Solid Waste Ordinance".

**51.11: DEFINITIONS**

The following words and phrases as used in this Ordinance shall have the meaning ascribed herein, unless the context clearly indicates a different meaning:

**51.11.01: Agricultural Waste:** means poultry and livestock manure, or residual materials in liquid or solid form, generated in the production and marketing of poultry, livestock, fur-bearing animals and their products, provided such waste is not a Hazardous Waste. The term includes the residual materials generated in producing, harvesting, and marketing of all agronomic, horticultural, silvicultural and agricultural crops or commodities grown on what are usually recognized and accepted as farms, forests, or other agricultural lands, and shall include brush and stumps.

**51.11.02: Bulky Waste:** White Goods, furniture, loose brush greater than three (3) feet in length or four (4) inches in diameter weighing more than 25lbs., auto parts, and other oversize wastes which are customary to ordinary housekeeping operations of a Residential Unit and whose large size precludes or complicates its handling by normal solid waste collection, processing or disposal methods.

**51.11.03: Commercial Establishment:** means any establishment that generates and accumulates solid waste during, or as a result of, its business, including, but not limited to, restaurants, hotels, stores, warehouses and churches; provided further that for purposes of this ordinance, Commercial Establishment shall include any residential dwelling that is

designed for, and inhabited by, five or more multiple family units and that generates and accumulates Solid Waste.

**51.11.04: Commercial Garbage Hauler:** means a person engaged in the business of collecting, storing or disposing of solid waste.

**51.11.05: Commercial Garbage Hauler's License:** means a license issued by the City of Box Elder, pursuant to the provisions of this chapter, authorizing a Commercial Garbage Hauler to operate within the municipal boundaries of the City of Box Elder.

**51.11.06: Composting:** means the storage of vegetable wastes on the property where they were generated, for the purpose of creating aerobic digestion and returning organic nutrients to the soil.

**51.11.07: Construction and Demolition Waste:** means all waste building materials, grubbing waste and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings and other structures and pavements.

**51.11.08: Residential Refuse Container:** Roll-outs, totes and other containers provided to the Residential Customer by the Contractor and utilized for collecting Residential Refuse. Containers are designed to contain 64 gallons or more of solid waste.

**51.11.09: Contractor:** the Commercial Garbage Hauler or Haulers who have entered into contracts with the City for the removal of Residential Refuse or other types of Solid Waste.

**51.11.10: Excluded Materials:** means Bulky Waste, Construction and Demolition Waste, dead animals larger than ten (10) pounds, Hazardous Waste, Medical Waste, industrial wastes, toxic substances, storm debris, trees, earth, body wastes, abandoned vehicles, large equipment (or parts thereof), or any other type of waste that is not included in the definition of Residential Refuse in this Agreement. Contractor shall not be required to collect, transport, dispose of or otherwise handle any Residential Refuse that is mixed with any Excluded Materials.

**51.11.11: Garbage:** kitchen refuse, cans, bottles, paper, cardboard, plastics, and other waste materials ordinarily originating on household or commercial premises. The word "Garbage" does not include Hazardous Waste, Residual Waste, Rubbish, Bulky Waste, Medical Waste or Yard Waste as those terms are defined in this ordinance.

**51.11.12: Hazardous Waste:** means a solid waste and combination of solid wastes, as defined in subdivision SDCL 34A-6-1.3(17), which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed but does not include radioactive materials regulated pursuant to SDCL chapter 34-21.

**51.11.13: Industrial Establishment:** means any establishments engaged in manufacturing or processing, including but not limited to factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

**51.11.14: Institutional Establishments:** means any establishment engaged in service, including but not limited to hospitals, nursing homes, orphanages, schools and universities.

**51.11.15: Medical Waste:** disposable equipment, instruments, utensils, human tissue, laboratory waste, blood specimens, or other substances that could carry pathogenic organisms.

**51.11.16: Person:** any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or agency, state institution and agency, or any other legal entity which is recognized by law as the subject of rights and duties. In any provisions of this ordinance prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term Person shall include the officers and directors of any corporation or other legal entity having officers and directors.

**51.11.17: Recycling:** the collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as solid waste, or the mechanical separation and treatment of solid waste (other than combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

**51.11.18: Residential Customer:** the occupants of a Residential Unit who produce Residential Refuse within the City of Box Elder.

**51.11.19: Residential Refuse:** Refuse, Garbage and Solid Waste originating from a Residential Unit. Residential Refuse never includes Hazardous Waste, Medical Waste, Agricultural Waste, Bulky Waste, Construction and Demolition Waste, Residual Waste, or Solid Waste from the operation of a Commercial Establishment, Industrial Establishment, Institutional Establishment, mining or agricultural operations.

**51.11.20: Residual Waste:** means any garbage, refuse, other discarded material or other waste including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, mining and agricultural operations and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous.

**51.11.21: Residential Unit:** Any residential dwelling unit that is designed for, and inhabited by, a single person or family unit; and individual dwellings within a residential structure having four or fewer dwelling units, within the corporate limits of the City of Box Elder.

**51.11.22: Solid Waste:** any Garbage, Bulky Waste, Construction and Demolition Waste, Yard Waste, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and agricultural

operations, and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under SDCL chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended to January 1, 2011, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 2011;

**51.11.23: Storage:** means the containment of any Solid Waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any Solid Waste in excess of one year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

**51.11.24: Transportation:** means the off-site removal of any Solid Waste at any time after generation.

**51.11.25: White Goods:** Refrigerators, stoves and ranges, water heaters, freezers, swing sets, bicycles (without tires) scrap metal, copper, and other similar domestic and commercial large appliances.

**51.11.26: Yard Waste:** Any and all vegetative matter resulting from private landscaping or regular yard maintenance. Yard Waste shall not include loose brush which is greater than three (3) feet in length or four (4) inches in diameter weighing less than 25lbs. Yard Waste also shall not include debris from commercial/professional landscaping or excessive debris caused by storms or other inclement weather. To be collected by the City's Contractor as part of the Residential Refuse service provided by the City, Yard waste must be in paper yard waste bags; and branches must be tied in small bundles 4' long. Yard waste is NOT permitted in the Residential Refuse Container, or in plastic bags.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

## **51.12: PROHIBITED ACTIVITIES**

**51.12.001:** It shall be unlawful for any Person to collect, transport or remove, for compensation, any Solid Waste unless they have first obtained a Commercial Garbage Hauler's License from the City.

**51.12.002:** It shall be unlawful for any person to accumulate or permit to accumulate upon any public or private property within the City, any Garbage, Bulky Waste, Yard Waste or any other Solid Waste except in accordance with the provision of this Ordinance, and any rules and regulations adopted by the City.

**51.12.003:** It shall be unlawful for any Person to burn any Solid Waste within the City of Box Elder.

**51.12.004:** It shall be unlawful for any Person to dispose of any Solid Waste in the City except in accordance with the provisions of this Ordinance.

**51.12.005:** It shall be unlawful for any Person to haul, transport, collect or remove any Solid Waste from public or private property within the City unless the ultimate disposal of this material complies with the requirements of the South Dakota Department of Environment and Natural Resources. (DENR)

**51.12.006:** It shall be unlawful for any Person to scavenge any materials from any Solid Waste that is stored or deposited for collection within the City of Box Elder without prior approval by the City.

**51.12.007:** It shall be unlawful for any Person to throw, place or deposit, or cause or permit to be thrown, placed or deposited any Solid Waste in or upon any street, alley, sidewalk, body of water, public or private property within the City except as provided in this Ordinance.

**51.12.008:** It shall be unlawful for any Person to place a used lead acid battery, tires or Hazardous Waste in Residential Refuse. No Person shall discard, or otherwise dispose of tires and/or Hazardous Waste other than in a facility authorized under the laws of the State of South Dakota. No Person shall discard, or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, or to a collection or recycling facility authorized under the laws of State of South Dakota.

#### **SECTION IV: 51.20: STANDARDS FOR STORAGE OF SOLID WASTE**

**51.20.001:** The storage of all Solid Waste shall be practiced to prevent the attraction, harborage or breeding of insects or rodents, and to eliminate conditions harmful to public health or which create safety hazards, odors, unsightliness or public nuisances.

**51.20.002:** Any Person producing Solid Waste shall provide a sufficient number of secure containers to store all waste materials generated during periods between regularly scheduled collections and shall place and store all waste materials therein.

At any time the Public Works Director determines that there are not sufficient capacity or number of Residential Refuse Containers to store Residential Refuse by any Residential Customer, the Public Works Director may require the Residential Customer to increase Residential Refuse Container capacity or number of Residential Refuse Containers in order to properly store waste materials for collection.

**51.20.003:** Any person storing Solid Waste for collection shall comply with the following preparation standards:

- A. All Solid Waste shall be drained of free liquids before being placed in storage containers.
- B. All Garbage shall be securely wrapped in paper, plastic or similar material or placed in properly tied plastic bags meant for the storage of Garbage.

**51.20.004:** All Solid Waste shall be stored in containers approved by the City or its designated representative. Individual containers and bulk containers utilized for storage of

Solid Waste shall comply with the following standards:

- A. Residential Refuse Containers shall be constructed of durable, watertight, rust and corrosion resistant material, such as plastic, metal or fiberglass, in such a manner as to be leak-proof, weather-proof, insect-proof, and rodent-proof.
- B. Residential Refuse Containers for individual residences shall have a tight-fitting cover and suitable lifting handles to facilitate collection.
- C. Residential Refuse Containers for individual residences shall have a capacity of not less than sixty (60) gallons nor more than one-hundred (100) gallons.
- D. An exemption from the capacity requirement identified in 51:20:004(c), for the use of a 400 Gallon 2-yard container can be requested. The lot for which the exemption is requested must be equal to or greater than one (1) acre, the lot must be in a sparsely populated (a space that contains few people) area of the city. The approval to have a dumpster DOES NOT exempt the residence from the requirement that all residential refuse shall be collected at least once each week. The request to have a dumpster must be resubmitted annually. The Public Works Director will approve or deny the request based on the suitability of the location. At such a time that any of these conditions change the approval for the dumpster can be overturned by the Public Works Director. Dumpsters will not be allowed in established housing estates (A residential area in which the houses have all been planned and built at the same time).  
Following approval of an exemption, dumpster waste collection services may be contracted with the City's contracted residential waste collector by Residential Customers following prior arrangement with the City Public Works Director.  
Payment will be made by the customer directly to the contractor.

**51.20.005:** Any person storing Solid Waste for collection shall comply with the following storage standards:

- A. Containers shall be kept tightly sealed or covered at all times. Solid waste shall not protrude or extend above the top of the container.
- B. Reusable containers shall be kept in a sanitary condition at all times. The interior of the containers shall be thoroughly cleaned, rinsed, drained and disinfected, as often as necessary, to prevent the accumulation of liquid residues or solids on the bottom or sides of the containers.
- C. Containers shall be used and maintained so as to prevent public nuisances.
- D. Residential Refuse Containers that do not conform to the standards of this Ordinance or which have sharp edges, ragged edges or any other defect that may hamper or injure the public or collection personnel shall be promptly replaced by the Contractor.
  - 1) Residential Customers shall be financially responsible for all damage to Residential Refuse Containers beyond normal wear, or caused by the customers' improper use or storage of the container.
  - 2) When damage to the Residential Refuse Containers is caused by the Contractor, or normal wear has rendered it unusable, the Contractor shall promptly replace the Residential Refuse Containers within twenty-four hours of the Contractor becoming aware of the situation.

- 3) Residential Customers possessing a container that no longer meets the requirements of this ordinance or is damaged, shall notify Contractor in order to obtain a new Residential Refuse Containers.
- E. Customers shall be required to place 60 to 100 gallon wheeled residential waste collection containers at a collection point within three (3) feet of the back of curb or driving surface of the roadway, unless otherwise approved by the City and the Contractor.
- F. With the exception of scheduled pick-up days when the 60 to 100 gallon Residential Refuse Containers are placed out for collection, all styles of containers shall be properly stored on the owner's or customer's premises a minimum of ten (10) feet from the public right-of-way at all times. Containers must be stored in a fashion and secured so they may not be carried away by the wind.
- G. Bulky Waste items set out for collection, shall be stored in a manner that will prevent the accumulation or collection of water, the harborage of rodents, safety hazards and fire hazards.
- H. The storage of all Solid Waste from Commercial Establishments, Institutional Establishments and Industrial Establishments or office waste sources not included in the City's Solid Waste Collection Agreement is subject to the regulations and standards set forth in this Ordinance. The type, size and placement requirements for bulk containers shall be determined by the waste generator and the waste hauler and may be subject to approval of the City.

#### **51.21: STANDARDS AND REGULATIONS FOR COLLECTION AND TRANSPORTATION OF WASTE:**

**51.21.001:** The City is authorized to contract with one or more Solid Waste (garbage) hauler(s) for the collection and removal of Solid Waste.

**51.21.002:** Every Residential Unit within the corporate limits of the City of Box Elder is required to utilize the Residential Refuse collection service provided by the City of Box Elder Contractor.

**51.21.003:** Every Residential Unit shall be billed a minimum monthly fee as determined by the City Council, for basic services herein detailed in this ordinance. The billing statement for Residential Refuse collection services will be reflected on the monthly water billing statement.

**51.21.004:** All Commercial Establishments, Institutional Establishments and Industrial Establishments shall dispose of all Solid Waste through private arrangements with a Commercial Garbage Hauler licensed by the City of Box Elder. Commercial Establishments, Institutional Establishments and Industrial Establishments, shall provide for the removal of and the transportation of all Solid Waste from their premises not less than once a week.

Solid Waste collection from these sources shall be made as often as necessary to control health hazards, odors, flies and unsightly conditions. The City reserves the right to require more frequent collection when deemed necessary.

**51.21.005:** All Residential Refuse shall be collected at least once each week by the City selected waste collection Contractor, as per the service contract.

**51.21.006:** Additional residential waste collection services may be contracted by Residential Customers, following prior arrangement with the City's collector and payment by the customer of any required special fees.

**51.21.007:** Residential Refuse collection schedules shall be published regularly by the City or its Contractor.

**51.21.008:** All Solid Waste collection activity shall be conducted from Monday through Friday between the hours of 7 AM and 7 PM unless prior approval of any exception has been granted by the City. No collection, hauling or transporting of Solid Waste shall be permitted on weekends, City observed holidays, or days when the disposal landfill is closed.

**51.21.009:** Private collectors shall comply with the following standards and regulations:

- A. All waste collected within the City shall be conveyed by the hauler to a contractually agreed upon processing facility permitted by SD DENR.
- B. Any trucks or other vehicles used for the collection and transportation of Solid Waste must comply with the requirements of the City and the Public Works Department regulations.
- C. The City reserves the right to require all licensed Commercial Garbage Haulers when necessary, to utilize smaller vehicles in service areas with alleys, or limited access streets and roadways.
- D. All collection vehicles conveying Solid Waste shall be watertight and suitably enclosed to prevent leakage, roadside littering, attraction of vectors, the creation of odors and other nuisances.
- E. Collection vehicles for Solid Waste shall be capable of being enclosed or covered to prevent roadside littering and other nuisances.
- F. All Solid Waste shall be collected and transported so as to prevent public health hazards, safety hazards and nuisances.
- G. All Solid Waste collection vehicles shall be operated and maintained in a clean and sanitary condition.

**51.21.010:** No Solid Waste collection vehicle shall be required to utilize any private driveway in the collection of Solid Waste under this ordinance.

**51.21.011:** Bidding Procedure – Bidding Collection/Hauling Services

The City may prepare bidding for municipal Solid Waste collection/hauling services as determined by the City Council. This will increase the number of bidders and allow for a more open, competitive bid process. The bidding collector/hauler must follow all laws, rules and regulations set forth by the City of Box Elder, State of South Dakota and Federal Government. The collector/hauler must complete all forms, and provide all documentation required by the City of Box Elder.



**51.21.012:** Any Residential Customer may request an exemption from the requirement that all Residential Customers pay for Residential Refuse collection services from the City's Contractor, by submitting proof of employment, and written documentation from their employer, signed by the owner or manager of a Commercial Establishment or Industrial Establishment, that, as of the effective date of this Ordinance, the Residential Customer is authorized to dispose of their Residential Refuse at the Commercial Establishment or Industrial Establishment. The written documentation must also acknowledge that the Residential Customer is authorized to dispose of their Residential Refuse at the Commercial or Industrial Establishment at least weekly. In addition, the residential customer shall provide documentation from the employer's refuse provider that they agree to accept that refuse. Should the Residential Customer provide written documentation, to the satisfaction of the Public Works Director, that their Residential Refuse is adequately being disposed of at a Commercial or Industrial Establishment, with the approval of the Commercial or Industrial Establishment, the Residential Unit where that Residential Customer resides will not be billed for basic services pursuant to section 51.21.003 of this Ordinance; nor will such Residential Unit be required to utilize the Residential Refuse collection service provided by the City's Contractor pursuant to section 51.21.002 of this Ordinance.

Those Residential Units being granted an exemption pursuant to this section shall not participate in the Yard Waste collection, Bulky Waste collection, or Christmas tree collection provided by the City's Contractor, without independently arranging for the same with the Contractor. Each Residential Customer requesting an exemption under this section agrees to store and transport their Residential Refuse in compliance with this Ordinance, and agrees to dispose of their Residential Refuse at a minimum of once each week.

The exemption shall be renewed on an annual basis and all the requirements and documentation of this section shall be met with each renewal. Renewal shall be submitted to the City of Box Elder no later than December 15.

The exemption authorized by this section only applies to Residential Customers authorized to dispose of their Residential Refuse at a Commercial or Industrial Establishment as of the effective date of this Ordinance. Any request for exemption pursuant to this section must be received prior to January 1, 2020.

### **51.30 COLLECTION AND DISPOSAL CHARGES:**

**51.30.001:** The Common Council of the City of Box Elder shall be authorized to make funds available, in accordance with the laws and procedures of the City, for the establishment, maintenance, and operation of the municipal solid waste collection and transportation system; or for the contracting of such service to a private collector.

**51.30.002:** Annual fee schedules shall be adopted by the City based upon the actual costs of collecting municipal waste within the City, plus any applicable administrative charges on each customer account. On the effective date of this ordinance, an administrative charge of two dollars and fifty cents (\$2.50) shall be applied to the Contractor's fee schedule for each customer account.

**51.30.003:** The City has the same billing collection rights as a water or sewer utility. City water and sewer utility fees will be billed with solid waste collection fees, and other fees charged by the City of Box Elder under the same terms of payment. Payment of solid waste collection fees shall comply with Ordinance 53.20.11 regarding payment of water service charges. Should any portion of a Residential Customer's utility payment become delinquent, specifically including solid waste collection fees, delinquent accounts will be treated as set forth in Ordinance 53.20.11. Failure to pay the charged solid waste collection fee may result in suspension of all City of Box Elder utility services, including water services.

**51.30.004:** Should any Residential Customer vacate their Residential Unit, during a monthly billing cycle, the monthly charge for Solid Waste collection shall be pro-rated to the last collection date at which the Residential Customer resided in the Residential Unit, provided that the Residential Customer provides the City with at least two weeks written notice of the Residential Customer's last collection date. If no notice is provided, the Residential Customer shall be charged for the full month's collection charge.

The payment of fees imposed by this chapter and not described in subsection 3 above, include prepayment, payment security devices like performance bonds, will be governed by terms and conditions established by the Public Works Committee. Any such fee(s) is an indebtedness to the City and maybe collectable by legal action if delinquent.

### **51.31: COLLECTION AND DISPOSAL SERVICES**

**51.31.001:** A Residential Customer who is not more than thirty (30) days delinquent in the payment of Solid Waste collection utility fees, is entitled to Residential Refuse collection and disposal services from the City, subject to the following conditions:

- A. The amount of Residential Refuse collected at a Residential Unit must fit within the Residential Refuse Container provided to the Residential Customer. Solid Waste placed outside the container will not be collected.
- B. Excluded Materials defined in this ordinance will not be collected unless special arrangements are made with the City's Contractor.
- C. The Residential Refuse must be packaged and handled in accordance with this ordinance, or in accordance with special arrangements made with the City's Contractor.
- D. The Residential Refuse Container must be placed for collection on the street curb or on the edge of street pavement. If the Director of Public Works has designated the alley as the waste collection site for a dwelling, the Residential Refuse Container must be placed for collection within three (3) feet of the alley lot line and where access to it from the alley is not impeded by a fence.
- E. The City's Contractor should collect waste once per week, subject to disruptions caused by holidays, weather conditions, equipment breakdowns, snow, and other emergencies.

- F. Residential Customers who habitually have excessive Residential Refuse that does not fit within the Residential Refuse Container provided may, at the discretion of the Public Works Director, be required increase the size of their Residential Refuse Container and/or be required to add additional Residential Refuse Containers at the customer's expense.

**51.31.002: Waste Containers**

- A. One (1) Waste Container will be provided by the City's Contractor to each Residential Unit under the Solid Waste Collection Agreement. The Residential Customer must maintain the Waste Container's cleanliness and serviceability.
- B. A Residential Customer can request additional Residential Refuse Containers if needed. An additional fee, as determined by the Contractor, for extra Residential Refuse Container(s) will apply.
- C. Contractor issued Residential Refuse Containers must be free of snow and ice.
- D. Residential Refuse Containers are not allowed to be placed in metal/wooden racks of any kind on the day of collection.
- E. A resident is responsible for replacing damaged Residential Refuse Containers not damaged by the Contractor. Residential Customers shall contact the Contractor in regards to container maintenance.
- F. A resident may not write, paint or mark on contractor provided Residential Refuse Containers.
- G. Residential Refuse Container(s) must remain at the assigned property at all times.
- H. All waste must fit in the Residential Refuse Container issued for collection by the Contractor.

**51.31.003: Time restrictions on placement of waste for collection:**

- A. A person may not place waste containers out for collection by the City pursuant to this ordinance:
  - 1. Before 6:00 p.m. on the day prior to the collection day; or
  - 2. Beyond the waste collection point after the collection crew has begun its collection route on collection day.
  - 3. "Collection day" means the day scheduled by the City or the City's Contractor for the collection of waste.
- B. The resident must remove the Waste Container from the waste collection point within 24 hours of the time the container was scheduled to be emptied by the City's provider.

- C. This section may be enforced by an administrative civil penalty as an alternative to prosecution in court. The civil penalty may be \$50.00 plus up to, or equal the monthly amount being charged for garbage pickup at the time of the offense. The civil penalty must be added to the utility bill of the penalized person as soon as practicable after the alleged offense occurred. The civil penalty charged to the utility bill must contain a written explanation of the charge and the right to contest the charge.
- D. A person penalized under subsection (c) above may contest the penalty in writing no later than ten (10) days after the due date provided in the billing. To contest the penalty, a person:
1. Must notify the Department of Public Works in writing stating the basis for the contest; and
  2. May provide evidence supporting the claim.
- Upon receipt of the notice, the Director of Public Works shall assign an employee of the department to investigate the validity of the imposed penalty. The investigating employee must be an employee other than, and superior in rank to, the department employee who initiated the civil penalty proceedings.
- E. If the contestant is unsatisfied following the internal review provided for in subsection (d), the contestant has the right to a hearing before the City Public Works Committee. The request for an appeal must be in writing and must be accompanied by any evidence the contestant wishes to be considered. The Committee shall schedule and conduct an appeal hearing as soon as practicable.
- F. Filing of a claim does not grant the contestant the right to delay payment of the utility bill (Water, Sewer & Garbage). If the contestant's claim is upheld, the appropriate adjustment will be made to the customer's bill.

#### **51.40: COMMERCIAL GARBAGE HAULER LICENSE REQUIRED**

It shall be unlawful for a Commercial Garbage Hauler to use the streets or roads within the City for the collection, removal or disposal of any solid waste, without first having obtained a Commercial Garbage Hauler License from the City of Box Elder.

The City may approve one or more Commercial Garbage Hauler Licenses for the removal of Solid Waste from commercial and multi-family occupancies. Commercial Garbage Hauler Licenses shall be renewed annually on or before January 1<sup>st</sup>, of each year.

The City Council by resolution shall set fee(s) for issuance and renewals of Commercial garbage hauler licenses.

The City is authorized to enter into a contract with one or more Commercial Garbage Haulers for the collection and disposal of Residential Refuse.

#### **51.41: COMMERCIAL GARBAGE HAULER LICENSE**

The form for application for a Commercial Garbage Hauler License and renewal thereof, as required by the provisions of this ordinance, shall be available from the Municipal Finance Officer. Upon completion of the application, the applicant shall return it to the Municipal Finance Office for review and approval by the Public Works Department. For an application to be considered complete, the applicant must submit the following:

- A. Proof or certification by the City of Rapid City or other licensed Sanitary Landfill that the applicant will be allowed to deposit solid waste collected from the City of Box Elder, SD in the Sanitary Landfill, or other state licensed landfill;
- B. Certificate of insurance coverage as stated in Section 51.44 of this ordinance.
- C. Payment of an application fee set by resolution of the City Council;
- D. Proof of State sales or excise tax number.

#### **51.42: APPROVAL OF APPLICATION REQUIRED PRIOR TO LICENSURE OR RENEWAL**

Before any Commercial Garbage Hauler License shall be issued, renewed or transferred under the provisions of this ordinance, the Public Works Department must approve the Application for License.

The City may require the applicant to furnish additional information, prior to approval of an application. Upon approval of the application, the Municipal Finance Officer shall issue a Commercial Garbage Hauler License to the applicant. Once issued, licenses shall be conditional upon the license holder complying with the Performance Standards of this ordinance.

#### **51.43: TRANSFER OF LICENSE**

The holder of a currently valid Commercial Garbage Hauler License, in conjunction with a party wishing to receive such a license, may apply for transfer of such a license in the same manner of application described in this ordinance. In such cases, the payment of the applicable fee shall be the responsibility of the party to receive the transferred license. For an application for a transfer to be considered complete, the signatures of an authorized representative from each party must be present on the application form. The city reserves the right to not grant a transfer of an existing license. This also applies to the merger or acquisitions of currently licensed or unlicensed garbage haulers.

#### **51.44: INSURANCE REQUIRED**

A certificate of insurance which lists the City of Box Elder as a named insured must be provided along with the application for a Commercial Garbage Hauler License.

- A. Such insurance shall protect the applicant and the City of Box Elder against loss

from the following:

1. Liability imposed by law for damages on account of bodily injury or death suffered or alleged to have been suffered by any person or persons whatever resulting directly or indirectly from any act, activity, errors or omissions of the licensee, any person acting for the licensee or any person under the control or direction of the licensee and
  2. Liability imposed by law for damages to property resulting directly or indirectly from any act, activity, errors or omissions of the licensee, any person acting for the licensee or any person under the control or direction of the licensee
- B. The certificate of insurance must show that the applicant has secured liability insurance with the following minimum coverage:
1. \$1,000,000 per person bodily injury; and
  2. \$3,000,000 per aggregate; and
  3. \$1,000,000 property damage

#### **51.50: EXCEPTIONS**

**51.50.001:** Nothing in this ordinance shall be deemed to prevent a landowner or occupier from creating and maintaining a compost pile provided it is formed entirely from vegetable wastes, is maintained so as to be digested from aerobic bacteria only, and is maintained in a manner which neither causes pollution nor is offensive to neighbors of reasonable sensibilities.

**51.50.002:** Nothing in this ordinance shall be deemed to prevent the disposal of Agricultural Waste upon an active farm, by burning, burial, or composting provided that such disposal is conducted in a manner not to cause pollution of the air or water, so as not to interfere with neighbor's use of their land, and such that it abides by the Nuisance Ordinance, if appropriate.

#### **51.60: ADMINISTRATIVE APPEALS**

**51.60.001:** All appeals shall be made in writing to the City Public Works Committee.

**51.60.002:** Pending a reversal or modification, all decisions of the Public Works Committee shall remain effective and enforceable.

**51.60.003:** Any person who is aggrieved by a new standard, regulation, determination or assessment issued by the City Public Works Committee, may appeal to the Common Council within ten (10) days after the Committee gives notice of its intention to issue the new standard or regulation.

**51.60.004:** The notice of appeal shall be served in writing and sent by certified mail with return receipt requested. Within twenty (20) days after receipt of the notice of appeal, the

Common Council shall hold a public hearing. Notice of the hearing shall be sent to the aggrieved party in time to adequately prepare for the hearing. Notice shall be sent to the party by certified mail with return receipt requested at the last known address in addition to publication in the local newspaper.

**51.61: PENALTIES**

Any person who violates any provision of this Ordinance may be issued an administrative citation, or upon conviction, be guilty of a misdemeanor which is punishable by a fine of not less than \$50, nor more than \$500, or in default of payment of such fine, then by imprisonment for a period of not more than 30 days, or both. Each day of violation shall be considered a separate and distinct offense.

**51.62: SEVERABILITY**

In the event that any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of such Ordinance shall not be invalidated by such action.


**51.63: CONFLICT**

Any ordinances or any part of any ordinance which specifically conflict with this Ordinance are hereby repealed insofar as the same affects this Ordinance.

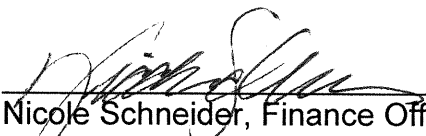
The Ordinance shall take effect on:

ENACTED AND ORDAINED into an Ordinance this 2nd day of May 2023.

CITY OF BOX ELDER

By:   
Larry Larson, Mayor

ATTEST:

  
Nicole Schneider, Finance Officer

First Reading: 4/18/2023  
Second Reading: 5/2/2023  
Publication: 5/11/2023  
Effective: 5/31/2023

