

ORDINANCE 2024 – 03-01
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
AN ORDINANCE AMENDING SECTION 402 "SOLID AND HAZARDOUS WASTE
MANAGEMENT"

Section 1.

Ordinance No. 402 titled "SOLID AND HAZARDOUS WASTE MANAGEMENT" is hereby replaced.

402. SOLID WASTE AND RECYCLING

402.010. **DEFINITIONS.** For the purpose of this chapter, the following terms, phrases, words and their derivations shall have these meanings:

1. Authorized Hauler. Any person, firm, corporation, association, partnership, or other entity that collects or transports Mixed Municipal Solid Waste (MMSW) that is generated in the City and is authorized by the City Council to collect and haul.
2. Authorized Mixed Municipal Solid Waste. Waste that is acceptable at the Designated Facility. Acceptable waste shall include garbage, and other municipal Solid Waste from residential and community activities that is generated and collected in aggregate and is not otherwise defined herein as Unacceptable Waste. No amount of Hazardous Waste or Infectious Waste that is regulated by law is acceptable at the Designated Facility. All household waste is Acceptable Waste unless it is otherwise regulated or prohibited by law.
3. Authorized Recycling. Materials that are separated from MMSW for the purpose of Recycling, which materials will be identified by the City Council, City's Solid Waste Contractor, and at least be inclusive of the Washington County standard list of residential curbside Recyclables. The list of Recyclable Material shall be provided to customers and updated on a regular basis as marketplace changes for recyclables.
4. Authorized Bulky Waste. Any item or material that the authorized hauler accepts only separately from authorized refuse or authorized recycling. Furniture, large toys, bicycles, lawnmowers, lawn chairs, carpet, and other Solid Waste with weights or volumes greater than those allowed for bags or carts. Bulky Waste does not include construction debris, hazardous waste, or Consumer Electronics.

5. Authorized Yard Waste or Compost. All yard waste or compost materials that the authorized hauler accepts. Means green/lawn clippings, leaves, weeds, garden waste (tomato vines, carrot tops, cucumber vines, etc.) soft-bodied plants (flowers and vegetable plants) small non-woody shrub trimmings or twigs (1/4-inch diameter maximum), pine cones and needles.
6. Authorized Materials. All Authorized Refuse, Authorized Recycling, Authorized Bulky Items and Authorized Yard Waste or Compost.
7. Compost or Composting. Any aboveground microbial process that converts organic materials to a soil amendment or mulch by decomposition of material through an aerobic process providing adequate oxygen and moisture.
8. Demolition waste. Waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.
9. Disposal. The discharge, deposits, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste or any constituent thereof which may enter the environment or be emitted into the air or discharged into any water, including groundwater.
10. Food Scraps. Food scraps are discarded organized waste from unused food or food residue.
11. Food Scraps Pickup Program (FSPP). Ramsey and Washington Counties' food scraps pickup program is a program that allows Ramsey and Washington County participants to collect and dispose of food scraps using program-specific bags that are co-collected with mixed municipal solid waste. After collection, the program-specific bags are separated from mixed municipal solid waste and recycled. Material to be collected shall follow the food scraps pickup program's list of accepted material.
12. Recycling. The process of collecting and preparing Recyclable Materials for the purpose of reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of Recyclable Materials in a manner that precludes further use.
13. Recyclable Materials. Materials that are separated from MMSW for the purpose of Recycling, which materials will be identified by the City Council, City's Solid Waste Contractor, and at least be inclusive of the Washington County standard list of

residential curbside Recyclables.

14. Residential Dwelling Unit (RDU). RDU shall include single dwellings and can include up to four multi-dwelling residences including residential manufactured homes and businesses operating out of a residence.
15. Solid Waste or Waste. Garbage, and other discarded solid materials including solid waste materials and waste sludges resulting from industrial, commercial, and agricultural operations and from community activities, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water to effluents, dissolved materials in irrigation return flows, or other common water pollutants.
16. Unauthorized Materials. Any material(s) which is/are not (an) Authorized Material(s).

402.020. DISPOSAL.

1. Authorized Materials. Authorized refuse, authorized recycling, and authorized yard waste must be placed in the container(s) provided by the authorized hauler(s).
2. Cart placement. It is the responsibility of all persons occupying or controlling any residence to:
 - a. Place containers issued by the Authorized Hauler containing Authorized Materials at the curb for collection, and at ground level, or as directed by the Authorized Hauler.
3. Items outside containers. Authorized Bulky Waste items shall be set out separately. Authorized materials that do not fit within the provided containers may be set out separately as specified by the authorized hauler.
4. Materials for collection. No person shall set out authorized materials except in the manner the Authorized Hauler specifies, nor shall any person set out Unauthorized Materials for collection by the Authorized Hauler.
5. Separation of materials. No person shall place authorized materials in any container not designated for those materials, nor shall any person mix authorized materials for collection for which the Authorized Hauler requires separation.

6. Hours of operation. Collection of authorized materials must comply with the City's Noise Ordinance. Collection of authorized materials shall not start before 7:00 a.m. or continue after 7:00 p.m. on the evening of the same date (Monday through Friday).

Exceptions to collection hours shall be affected only upon the mutual agreement of the City and hauler. Exceptions may include holidays, landfill operations, or when the hauler and City reasonably determine that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances. The City has the final decision in all exceptions.

7. Recycling. The city's contracted hauler is required to pick up authorized recycling materials at every Residential Dwelling that secures a container specified by the Authorized hauler.
8. Materials for non-collection pickup. Unless such acts violate City Code other than this chapter, or create a hazard, obstruction, unsanitary condition or nuisance, materials may be placed out for others to pick up without cost or for sale on a lot or on street right-of-way. However, no resident or owner of the property shall allow materials to remain for more than seven days.
9. Hazardous waste. Hazardous waste shall be disposed of as required by Washington County and the state of Minnesota.
10. Resource recovery. Resource recovery is a desirable alternative to collection for disposal in landfill sites. No provision of this chapter shall abridge the right of persons to dispose of refuse in this manner provided storage of the recoverable materials is concealed from public view and such storage is not dangerous to the public health.
11. Demolition waste. All demolition waste must be disposed of in accordance with County regulations. Residents may contract with their own waste hauler to utilize roll-off dumpsters to dispose of construction debris.
12. Clean fill. Dirt, stones, etc. used as clean fill is not covered under this chapter.

402.030. **COLLECTION SUPERVISED BY CITY COUNCIL.** The City Council shall have the authority to make rules and regulations, to authorize haulers by contract, to determine days of collection, types and location of waste containers, to limit or prescribe fees charged by Authorized Haulers, and such other matters as it deems necessary provided that such are not contrary to the provisions of this Code. The City shall have the right and duty to administer this Ordinance.

Authorized Hauler agrees that during the life of the contract, the Authorized Hauler will not, within the state of Minnesota, discriminate against any employee or applicant for employment because of race, color, creed, national origin, ancestry, or sex and will include a similar provision in all subcontracts entered into for the performance thereof.

402.040. LICENSING AND LICENSEE RESPONSIBILITIES; COUNTY LICENSE REQUIRED. It shall be unlawful for any person to collect Solid Waste from any person for a fee or other charge or under contract within the City without having first secured a license from the County. This Ordinance requires that appropriate licenses be obtained from Washington County for the establishment and operation of Solid Waste Management activities and Facilities. The City may have the right and duty to approve and consider all license applications submitted to the County for operation of all Solid Waste Management activities, Sites, or Facilities, and hauling services within the City.

402.050. EXCLUSION OF UNAUTHORIZED HAULERS. The purpose of city-authorized haulers is to reduce traffic on city streets and roads, to reduce noise and pollution, and to secure better contract terms for collection. No person shall receive regular collection of authorized materials from any hauler except an Authorized Hauler.

402.060. FEES FOR COLLECTION AND DISPOSAL. The fees for collection and disposal of Waste Materials for each container size shall be set equally for all persons by the City's authorized hauler(s), subject to restrictions imposed by the City Council. The authorized hauler(s) shall not charge a fee to residents for recycling. All amounts due hereunder shall be payable to the authorized hauler, and the authorized hauler may set and collect additional fees for collection of yard waste, compost, bulky items, late payments, or for services other than the scheduled collection of Waste Materials and recycling in the containers provided by the authorized hauler.

402.070. WASTE COLLECTION REQUIRED. Every RDU shall contract with the City's Authorized Hauler(s) for Recycling and Waste Materials collection. Residential services will be outlined in the contract between the City and the Authorized Hauler(s). Every owner must ensure Recycling and Waste collection are provided at each dwelling within 30 days of occupancy. Such service must be maintained during occupancy.

In addition to all criminal remedies available to it, the City may contract for recycling and refuse collection for any residence that does not contract with an Authorized Hauler and shall charge the costs of the contract and all direct or indirect administrative costs the City incurs.

402.080 ILLEGAL WASTE DISPOSAL.

1. No person shall sweep or deposit any authorized or unauthorized materials in any public place or public way except in public containers.
2. Persons owning or occupying property shall keep any right-of-way bordering their property free of litter.
3. No person shall cast, place, sweep or deposit any authorized or unauthorized materials in such manner that it may be carried or deposited by the elements off the property within the City.
4. No person shall burn authorized or unauthorized mixed municipal solid waste, authorized or unauthorized recycling.
5. No person shall bury authorized or unauthorized materials.

402.090. UNLICENSED OPEN DUMPS. It shall be a violation of this Ordinance for any Person to operate an Open Dump. Waste placed in Open Dumps or illegally Disposed of shall be collected and transported to a licensed Waste Facility for proper Disposal by the Property Owner or other Person(s) determined by the City to be responsible for the illegal activity. The responsible party shall submit a closure plan for City review and shall close the dump in accordance with the following provisions.

1. The responsible party shall notify the City at least 10 days prior to commencement of excavation/removal activity at the subject Site. A receipt or other documentation approved by the City that indicates satisfactory and legal Disposal of the subject Solid Waste shall be submitted to the City no later than 14 days after Disposal.
 - a. Implementation of a water monitoring program may be required by the City based on the Open Dump's potential to adversely affect the public's health and the environment. Any required water monitoring program shall be conducted pursuant to MPCA rules, guidelines, procedures, and policies. Plans to protect the ground and surface water shall be approved by the City prior to implementation.
 - b. Surface water must be diverted around and away from the Open Dump.
 - c. Remove all containerized liquids, Hazardous Waste, and other items specified by the City for proper Processing or Disposal. Potentially Recyclable Materials may be removed for Processing or Marketing.
 - d. Establish and maintain final grade between 2% and 25% to promote surface water run-off without excessive erosion.
 - e. Establish vegetative cover consisting of shallow rooted perennials or other suitable vegetation.

- f. The Owner of the property on which the Open Dump is located shall place on record an instrument with the Washington County Recorder, in a form prescribed by the City, placing the public on notice of the existence and location of the Open Dump and of the obligations placed upon parties holding an interest in the property and the restrictions which may affect the use of the property.

402.100 ABANDONMENT AND STORAGE OF BULKY WASTE. No person shall have any abandoned, unattended, or discarded refrigerator or other similar appliance which has an airtight door or lid with a snaplock or other locking device which may not be released from the inside, on any lot, or in any structure.

402.110. MAINTENANCE OF LOTS. The owner of a lot shall maintain the lot consisting of weeds, grass lawn, trees, shrubs and other vegetation free and clear of all Waste Materials.

1. Rodent harborages prohibited in occupied areas. No occupant of any structure shall accumulate boxes, lumber, scrap materials, construction debris or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling. Stored materials shall be stacked neatly in piles.
2. Notice to Owners of Unsanitary Conditions. When any unsanitary conditions are found on any property, an agent of the City shall order the owner or occupant thereof to remove the same, at his or her expense, within a time not to exceed ten days, the exact time to be specified in the notice. This notice shall be served by delivering a copy thereof to the owner, occupant, or agent of the property.

402.120 COMPOSTING. Any resident may compost materials. Composting must not result in objectionable odors or any hazard to health or welfare or a public nuisance.

402.130. INSPECTION. The City shall have the right and duty to inspect containers set out on public right-of-way for collection to determine if the property Owner is in compliance with the provisions of this Ordinance.

402.140. ADDITIONAL REQUIREMENTS AND PROVISIONS.

1. Waivers or Modifications. Due to the great variability in the types of Solid Wastes and their existing and potential management methods, the City may waive or modify the strict application of the provisions of this Ordinance by reducing or waiving certain

requirements when such requirements are unnecessary or impractical, provided such a waiver or modification will not endanger the public health, safety, welfare, or the environment. The City may impose reasonable additional requirements through Solid Waste Management activity or Facility-specific license conditions when deemed necessary to protect the public health, safety, welfare, or the environment.

2. Agency Approval. No modification or waiver may be granted if it would result in noncompliance with Minn. Rules Chapter 7035 unless such modification or waiver has been granted by the Minnesota Pollution Control Agency.

3. Promotion of Public Health, Safety, and Welfare. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance, or any other applicable law, Ordinance, rule, and regulation, the provision which establishes the higher standards for the promotion and protection of the public health, safety, and welfare shall prevail.

4. Construction. This Ordinance shall not be construed to hold the City or the County or any officer or employee responsible thereof for any damage to Persons or property by reason of the inspection or reinspection authorized herein provided, or by reason of the approval or disapproval of equipment or licensing herein, nor for any action in connection with the inspection or control of Solid Waste or in connection with any other official duties.

5. No Consent. Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct, operate, or maintain any Solid Waste Facility, or to carry on any activity.

6. Severability. If any provision of this Ordinance or the application thereof to any Person or circumstance is held invalid, said invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of the Ordinance are severable.

402.150 ENFORCEMENT.

1. INJUNCTIVE RELIEF. In the event of a violation or a threat of violation of this Ordinance, the City may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations.

2. CIVIL ACTION OR COST AS SPECIAL TAX. If a person fails to comply with the provisions of this Ordinance, the City may recover the cost incurred for corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against the real property.

3. CITATION. The City may issue citations for violations of this Ordinance.

402.160 COMPLAINTS. The City shall log and investigate any complaint relating to this chapter under Chapter 618 of the City Code.

402.170. PENALTIES. Unless otherwise specified, any person violating any of the provisions of this ordinance by doing any act or failing to any act which constitutes a breach of any section of this ordinance is guilty of a misdemeanor, or a petty misdemeanor as noted.

402.180. SEPARABILITY. Every section, provisions, or part of this ordinance is declared separable from every other section, provision or part to the extent that if any section, provision or part of the ordinance shall be held invalid, it shall not invalidate any other section, provision or part thereof.


EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this 10th day of December, 2024.



Margaret Ford, Mayor

Attest:



Rebecca Kellen, City Administrator-Clerk

