

Chapter 12

GARBAGE, TRASH AND WEEDS*

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Article I. In General

Sec. 12-1. Definitions.

The following definitions of terms shall apply unless elsewhere expressly stated for specific applications:

A. "Apartment" means two (2) or more rooms which are occupied or which are intended or designed to be occupied by one family for living and sleeping purposes.

B. "Apartment house" means any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three (3) or more families living independently of each other and doing their own cooking in the building, and shall include flats and apartments.

C. "Compost" means the product resulting from the decomposition of leaves, straw, grasses and other such vegetable matter mixed with well-rotted manure, and mixed or unmixed with inorganic materials ordinarily forming a part of the soil, such as sand or lime, loam, and used and usable or intended to be used as fertilizer and soil conditioner.

D. "Control collection" means engagement by the City of a private company or companies under formal agreement and definite specifications to collect and haul municipal refuse for which the contractors are paid from general public revenues or service fees collected by the City. No such service exists in 1990 or in 2002.

E. "Disposal area" means any site, location, tract of land, area, building, structure or premises used or intended to be used for refuse disposal. This is limited to the Refuse District's incinerator and Park County's landfill, as of July 1, 1990.

* Prior history: Code 1958 §§ 12-1—12-8, 12-10, 12-11, 12-11.1, 12-11.2, 12-12, 12-13, 12-20, 12-31, 12-33 and Ords. 1050, 1089, 1123, 1430, 1435, 1501, 1565, 1570, 1599, 1633.

F. "Garbage" means every accumulation of animal, vegetable or other matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, birds, fruit or vegetables, including the cans, containers, or wrappers wasted along with such materials.

G. "Guest room" means a room in a building occupied or which is intended and designed to be occupied, let or hired out to any person for living and sleeping purposes, and shall include one room apartments, housekeeping rooms, bachelor's cabins and other rooms of a like nature.

H. "Manure" means the accumulation of animal or fowl droppings with or without added decomposable materials such as straw, grasses, or leaves, and exclusive of human excrement.

I. "Municipal collection" means performance of collection operations by City employees and equipment under supervision and direction of a regular municipal department or official.

J. "Owner or occupant" means the person occupying a dwelling or unit, or the person owning, operating, managing or keeping any hotel, apartment house, rental unit, mobile home, boardinghouse, trailer camp, auto court, restaurant, food establishment, school, church, or institution or premises wherein or whereon refuse accumulates or is likely to accumulate.

K. "Private collection" means collection by individuals or companies of refuse materials from private properties, pursuant to arrangements made directly between the owner or occupant of the premises and the collector, or where the owner or occupant removes his own refuse from such private properties. (Properties annexed into the City where the property owners are currently employing private collection are permitted to continue to employ this private collector for up to five (5) years following annexation.)

L. "Rack" means any type of support which will hold refuse containers upright and protect the contents from being scattered by animals or the wind.

M. "Refuse" means any waste products solid or having the character of solids rather than liquid in that it will not flow readily without additional liquid and which is composed wholly or partly of such materials as garbage cleanings, trash, rubbish, litter, industrial solid wastes or domestic solid wastes; organic wastes or residue of animals sold as meat, fruit or other vegetables or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables, offal, animal excreta or the carcasses of animals, tree or shrub trimmings, grass clippings; brick, plaster or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance.

N. "Refuse collector" means the person, firm, agency or public body or employee or agent thereof who is or intends to be engaged in the collection and/or transportation of refuse in any part of the City.

O. "Refuse container" means any container owned and provided by the City that has been approved by the Director of Public Works. Residential containers are normally ninety-six (96) gallon totes.

P. "Refuse disposal" means the complete process required for the disposal of any refuse and includes all tools, equipment, treatment spaces, buildings, structures, appurtenances and materials required to take refuse from a refuse collector and bury, incinerate, destroy or otherwise dispose of such refuse.

Q. "Rubbish" means wood, leaves, trimmings from shrubs, dead trees or branches thereof, shavings, sawdust, excelsior, woodenware, dodgers, printed matter, paper, paperboard, pasteboard, packing crates and pasteboard boxes, grass, roots, straw, wearing apparel, soil, earth, sand, clay,

gravel, loam, bricks, plaster, crockery, glass, glassware, ashes, cinders, shell, metals, and all other materials not included under the term "garbage."

R. "Salvage operation" means any operation carried on by a person, firm or corporation for the express purpose of reclaiming for value a portion of a substance, material, or goods prior to or as part of the refuse disposal process by sorting, segregation, or other manual or mechanical means.

S. "Senior citizen" means, for the purpose of this chapter, the owner and occupant, at least sixty-five (65) years of age, of residential property.

T. "Special refuse" means any refuse which due to its large volume or due to its special health problems requires special handling at the incinerator or landfill site. Such special refuse includes but is not limited to the following:

1. Volumes of material.
 - a. Construction and demolition material,
 - b. Large appliances and auto bodies,
 - c. Tire casings,
 - d. Trees and limbs not otherwise chipped or ground;
2. Materials posing special health problems.
 - a. Institutional and hospital waste,
 - b. Dead animals,
 - c. Water or wastewater sludge,
 - d. Fly ash,
 - e. Pesticide containers,
 - f. Animal manure,
 - g. Hazardous waste as defined by CERCLA and RECRA.

U. "Tire" means the old tire casing from three (3) or more wheeled vehicles.

V. "Transportation of refuse" means the hauling in bulk or in refuse containers to the incinerator or designated disposal area or possible transfer station. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Article II. Garbage Containers

Sec. 12-2. Accumulation of refuse—standards generally.

The standards and requirements set out in Sections 12-3 through 12-120 are established as a minimum for the accumulation and storage of refuse pending collection. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-3. Future use of underground cans prohibited.

From and after July 1, 1990, underground containers shall not be used. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-4. Refuse—placement for curb collection.

Residential refuse and garbage generators shall place refuse and garbage containers on the scheduled collection days at the curblin in front of their residences if they do not have an alley.

Curbside containers shall not be placed for collection before six (6) p.m. on the day preceding the day of collection, and after the containers are emptied they shall be removed from the curblin on the day of collection. It shall be the duty of the owner or occupant to provide and maintain accessibility to any and all containers. All residential refuse and garbage shall be placed in bags that are as securely fastened at the top as practicable and must be placed in a garbage container unless otherwise directed by the Public Works Director. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-5. Refuse—placement for alley collection.

It shall be the duty of the owner/occupant to provide and maintain accessibility to any and all containers located in the alley. All residential refuse and garbage shall be in plastic bags securely fastened at the top and placed in ninety-six (96) gallon totes. Automated three hundred (300) gallon dumpsters shall be provided by the City of Livingston for commercial establishments and large apartment buildings; containers shall be positioned as approved by the Public Works Director. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-6. Refuse—maintenance area requirements.

A. Refuse containers and racks shall be provided by the City. Refuse containers and racks shall be maintained in good condition. Any container or rack that does not conform to the provisions of this Code or having any defect liable to hamper collection shall be promptly replaced upon notice.

B. Containers shall be made of plastic equipped with suitable handles and tight fitting covers, and shall be watertight. The basic assessment rate includes one (1) ninety-six (96) gallon tote for each residence. In the event that excess garbage is generated at a residence, an additional tote may be rented on a monthly basis from the City of Livingston. Garbage containers shall have a capacity of not more than ninety-six (96) gallons and shall be kept in a clean, neat and sanitary condition at all times.

C. In cases that the property does not abut upon an alley, such rack shall be placed in a convenient place for their removal, and their location shall be subject to the approval of the Public Works Director, or authorized representative. Such racks shall be controlled to assure that they are clean, free of spilled refuse, residues or wastes. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-7. Refuse—garbage-wrapping requirements.

All garbage placed in refuse containers shall be enclosed in bags, securely fastened at the top. Refuse collectors will not take the following materials:

- A. Limbs and trimmings which are over four (4) feet in length;
- B. Flammable liquids;
- C. All construction, demolition or remodeling debris;
- D. Concrete, dirt or plaster;
- E. Appliances or other furniture;
- F. Hot ashes;
- G. Dead animals or parts thereof;
- H. Any hazardous waste.

(Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-8. Combustible rubbish storage.

Whenever combustible rubbish is held and stored within any industrial, commercial, or business structure, it must be stored in a manner acceptable to the Fire Department. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-9. Rubbish accumulation.

Ordinary accumulations of rubbish between collections may be placed at the designated collection place in the alley in the ninety-six (96) gallon tote provided by the City of Livingston. Extraordinary accumulations of rubbish shall be placed for collection in appropriate containers. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-10. Refuse handling—refuse storage.

Bulk handling or storage of refuse of any character shall be subject to review by the City, and the owner or occupant of any industrial, commercial or business establishment shall make such provisions as required for the sanitary and safe storage and collection of such refuse as may be produced in quantity. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-11. Contagious, hazardous or dangerous material accumulation.

A. No refuse which may carry infections or contagious substances or communicable diseases shall be placed for collection. Disposal at a proper disposal site for the material is the sole responsibility of property owner.

Discarded fluorescent lighting tubes, mercury vapor lamps, incandescent bulbs and vacuum tubes shall be wrapped or boxed in an approved manner so as to be inaccessible to children. Old medicine disposed of through the refuse service shall be securely wrapped and kept inaccessible to children. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-12. Dumpsters.

For multifamily dwellings containing three (3) or more separate units, that are metered by one (1) meter, prices will be based on weight. A three hundred (300) gallon dumpster will be provided by the City of Livingston. For commercial or industrial establishments, dumpsters shall be provided, except for small commercial establishments generating one (1) ninety-six (96) gallon tote or less of refuse per week. Dumpsters or totes, as deemed necessary by the City, shall be supplied by the City of Livingston. All decisions on necessity of dumpsters under this Chapter shall be made by the City Public Works Director or authorized representative. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Secs. 12-13—12-20. Reserved.

Article III. Collection Standards

Sec. 12-21. Standards generally.

The standards and requirements set out in Sections 12-14 through 12-19 are established for the collection and transportation of refuse. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-22. Reserved.

Sec. 12-23. Littering prohibited.

The collector shall not litter any premises or public property while making collections of refuse, nor shall any refuse be allowed to blow or fall from collection vehicles; however, if in spite of normal precautions against spillage, litter is made on any premises or public property, the collector shall immediately remove same and clear up the area of spillage. The collector shall not be responsible to clear up the area of spillage when refuse has been carelessly spilled by the owner/occupant. The City Code Enforcement Officer shall be notified to enforce correct litter accumulation requirements. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-24. Regulations.

The collector shall make all collections in a quiet and orderly manner and shall refrain from making any unnecessary disturbance and noise. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-25. Equipment.

Equipment used by the collector for the collection and transportation of refuse shall be so constructed and maintained as to prevent leakage, spillage or overflow, to prevent such leakage, spillage or overflow, trucks, transportation trailers, and other hauling mechanisms shall be totally covered by metal, canvas, cord or mesh tied at minimum intervals of no more than two (2) feet in all directions. Trucks shall not be loaded in excess of the limits as specified by law for operation upon the streets and highways of the City, County and State. All trucks and equipment shall be clearly identified by an assigned equipment number and with the name and local telephone number of the owner or operator affixed thereto. Trucks and equipment engaged in the collection of refuse shall be operated in such a manner as to provide the least interference with the movement of other traffic. Loaded vehicles shall not be left standing on streets or in other places accessible to the general public and when parked overnight shall be parked in a suitable off-street parking area. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-26. Private persons transporting to adhere to regulations.

Private persons who transport any refuse materials shall be subject to the requirements as contained in Sections 12-14 through 12-18, and any such person who spills or allows the spillage of any refuse material while transporting the same, shall immediately remove and clean the area of spilled refuse. Residents who load their own vehicles and dump at the incinerator or the landfill must have a cover over the garbage. However, they are not required to mark their vehicles with identifying data. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Secs. 12-27—12-30. Reserved.

Article IV. Premises

Sec. 12-31. Maintenance—violation—notice.

A. It shall be the duty of every owner/occupant as defined in this chapter to maintain the premises, equipment, containers, and disposal areas owned or used by him or under his supervision in compliance with all the requirements of this Chapter and all of the applicable provisions of this Code, and any violation thereof shall constitute a misdemeanor and shall be punishable under the general penalty of this Code.

B. Whenever an offense is observed pertaining to these requirements, the owner/occupant shall be served notice citing the violation and requiring abatement of such offense within twenty-four (24) hours. Such notice may be served by verbal notification to the responsible party, written notice delivered to any adult found on such premises, by affixing the same securely to the handle of the front door of the premises, and/or by mailing such notice to the owner/occupant of the premises. If the violator, upon receiving the notice of violation, does not abate the problem within twenty-four (24) hours, the City Code Enforcement Officer or any person authorized by the City court may issue a citation. This procedure will be for first time offenders; these procedures will not apply to any further violations for the same and/or similar ordinance infractions. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-32. Alley maintenance.

All persons owning, occupying or being in control of property fronting on any alley of this City shall keep the portion of the alley between the centerline thereof and the property line of such property and fronting on such property, free from garbage, rubbish, weeds, trash, paper, or any other combustible material. Failure to carry out such duties in this Section or elsewhere required for the accumulation, collection, transportation, and disposal of refuse in any place or in any condition not meeting the requirements of this Code is a misdemeanor. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-33. Sanitary condition required.

It shall be the duty of every owner/occupant as defined in this Chapter to keep the premises under his control, where refuse is stored pending collection, in a clean and sanitary condition at all times; and commensurate with good sanitary practice, to be responsible for general cleaning and maintenance of the City containers. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-34. Container placement—parks and public areas.

Containers shall be placed by the owner/occupant in a place approved by the sanitation division. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-35. Collection—compliance with health standards.

Refuse shall be collected in compliance with State and City-County health standards and in a manner, which precludes the occurrence of a nuisance. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-36. Collection—authorized.

Every tenant, lessee, occupant, keeper or owner of the places or referred to in this Chapter shall be responsible for the regular collection of garbage from the places of occupancy by authorized collectors. No person shall permit the removal of any refuse except in an approved manner or by an authorized collector. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Secs. 12-37—12-40. Reserved.

Article V. Miscellaneous Provisions

Sec. 12-41. Littering—rodent harborage—deposit in unauthorized area—prohibited.

No person shall throw or deposit any refuse or cause the same to be thrown or deposited upon any street, boulevard, alley, gutter, park or other public way or throw or deposit the same in or upon any premises or vacant lot or in any waterway thereto, or store or keep the same except in containers required by this Chapter and such offense is punishable under State law.

It is unlawful for any person to distribute or throw upon, or cause to be distributed or thrown upon any street, alley or public place, or upon or in any part of any structure or upon any vacant property, or in any automobile, or in any mailbox not in possession or under the control of the party so distributing the same within the City, any advertising sample, handbill, dodger, circular, booklet, or other notice of commercial advertising; provided, nothing in this Section shall prohibit the distribution and delivery of any newspaper which is capable of being entered as second class matter under the provisions of the United States Code. No person shall store, deposit, or keep refuse in any place or in any manner where rodents can have access to or feed thereon, or can cause such refuse as a harborage, nest or breeding place. No person shall deposit or cause to be deposited any refuse in any place other than specified in this Chapter. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-42. Fill material—authorized when.

When approved by the City-County Sanitarian, the owner of a premises may place rubbish in low areas or low lots as a fill material when such is leveled and covered and when such practice will not create an unsanitary condition or nuisance. The owner of the property receiving such filling shall be responsible for any unsanitary condition or nuisance resulting therefrom. Permission for such placement of refuse must be obtained from the City-County Sanitarian. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-43. Burning.

No person shall burn refuse in the City. However, paper or paper products, with special written permit from the City Fire Department, may be burned. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-44. Construction—waste removal regulations.

Each person, building contractor, construction contractor, or subcontractor, engaged in the construction or repair or demolition of any building or structure or part thereof, shall remove and dispose

of in an authorized manner from any street, alley, gutter, park, sidewalk curbing, curb space, any public way or any premises not owned by him all waste matter or rubbish deposited thereon in connection with that portion of the repair, construction, or demolition work under his special or general supervision. Such refuse, waste matter and rubbish shall be cleaned up, removed, and disposed of in a sanitary manner within seven (7) days of the final cessation of work on such building or structure or part thereof as determined by the building inspector unless otherwise specifically authorized by the City Code Enforcement Officer. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-45. Salvaging prohibited—exception with contract or permit.

No person shall pick over, sort, segregate or salvage any refuse deposited in any authorized disposal area, refuse container or refuse pile except as authorized by contract or permit. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-46. Accumulations on vacant lot prohibited.

No person, owner, absentee owner or absentee agent, agent or occupant of a lot or premises whereon a building of any kind may exist or of a vacant lot shall allow any collection of garbage, rubbish, waste matter or filth of any description to remain on such lot or premises. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-47. Manure accumulations.

Manure shall be removed from pens, stables, barns, veterinary hospitals and all similar places within the City at the expense of the owner in an approved manner. Manure which may be well-rotted or classified as compost may be used as fertilizer, but manure having any considerable odor or likely to cause a nuisance shall be prohibited from use. All manure resulting from keeping of animal, fowl, livestock or game in the City shall be accumulated in sanitary flyproof containers and collected and disposed of in an approved manner. The accumulation, collection and disposal of such material in any manner not conforming with the standards and requirements of this Chapter is a misdemeanor, and the unsanitary accumulation, collection or disposal of such substance is a nuisance and the Chapter shall be enforced by the City Code Enforcement Officer. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-48. Dead animals—collection.

Every person who is the owner or custodian of any animals, fowls, livestock or game which have died other than by slaughter for food or butchered for private use, or any animal offal from slaughterhouses, slaughterpens or any offal or putrescible waste from any place where meat, fish, poultry, game, or fowl are sold or handled or discarded as unfit for food, or spoiled, or condemned shall dispose of the remains, carcasses, or parts of entrails thereof within the next available period of daylight after such death or accumulation in an approved manner as required by the City-County Health Board or as assisted by the Code Enforcement Officer. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-49. Exemption from service prohibited.

It is declared that it is in the interest of good health and sanitation that all premises in the City should receive sanitation service. No service exemption shall be made. Owner/occupants receiving private collection under a City license or permit shall be exempt from City collection charges unless such owner/occupant uses a City container in which case he shall be charged for so long as such use continues. Charges for refuse disposal shall be made against all lots wherein or whereon refuse accumulates or is likely to accumulate. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-50. Contractual or private collection—license required.

No person or corporation except the City may engage in the business of collecting and removing refuse from any business establishment or private dwelling in the City. However, a party with a commercial garbage license may continue any contract as to newly annexed properties for five (5) years as required by State law. Obtaining a commercial garbage license therefore as hereinafter provided. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Secs. 12-51—12-60. Reserved.

Article VI. Sanitation Service Costs and Assessments

Sec. 12-61. Levy against premises.

A. The cost of sanitation services including collection, refuse reduction or shredding and disposal of garbage from the streets, alleys and private premises of the City shall be assessed and taxed against the real estate for which garbage service is provided or available.

B. The collection of solid waste is a service. The property owner pays for the availability and utilization of this service. The appropriate weekly minimum charge will be billed monthly regardless of whether the service is utilized.

C. Excepted from charge shall be buildings unfit for use, buildings used exclusively for cold storage and vacant lots.

D. In situations where new services are added or present services are altered after the assessments have been certified to a property, a separate billing or adjustment will be made.

Whenever, due to nonpayment, a billed amount becomes delinquent for over thirty (30) days, the Finance Officer shall notify the property owner of the delinquency, of any carry charges being accrued and the date when billing will be added to the City's tax rolls. (Ord. 1660, 6/4/90; Ord. 1716, 7/20/92; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-62. Billing charges.

A. In lieu of the assessment of costs against the real property provided for in Section 12-61 and otherwise referenced in this Chapter, the City may make monthly billings for the cost of sanitation service set forth in Section 12-61 as part of a unified utility billing. Payment shall be made at the City Finance Office within ten (10) days after the billing date. If payment is not made, City utilities will be shut off/discontinued after appropriate notice and such costs shall be assessed against the premises as otherwise provided for in this Chapter.

B. The property owner may appeal the utility billing in writing with delivery to: Public Works Director, Livingston Utility Office 330 Bennett Street; Livingston, Montana. The appellant may appeal the decision of the Public Works Director. This appeal must be made within three (3) working days, in writing, to the City Manager. The City Manager may hold a hearing on the appeal. The Manager's decision may be appealed to the City Commission. The City will take appropriate action five (5) work days after written notification of the City's Hearings Officer's decision if satisfactory payment has not been made per this decision.

C. The City will classify collection in one of three (3) categories: residential solid waste, multi-unit residential solid waste, or commercial solid waste. The charges for commercial solid waste and waste in dumpsters will be based on weight and the category where this weight fits. The monthly solid waste bill will be calculated from the classifications for the month. Should a weight not be available, the average of the last two (2) weights (for the same day of the week) will be used. Single-family residences are forecast to produce approximately one (1) ton of solid waste per year.

D. All premises in one ownership where the owner resides on premises and also runs the business shall be charged based on weight as commercial solid waste.

E. A property that is single ownership with both more than one (1) business and more than one (1) apartment may combine solid waste into a single commercial pick-up with one (1) commercial billing to the owner. (Ord. 1660, 6/4/90; Ord. 1716, 7/20/92; Ord. 1759, 5/2/94; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-63. Sanitation services.

A. The Public Works Director shall obtain a list of all business and residential property being assessed for sanitation services from the Finance Officer. The Public Works Director shall review this list with the actual collection sites and inform the Finance Officer within seven (7) days after inspection of any changes or differences noted.

1. All commercial collection sites are to be clearly identified on the list, and the following additional information will be provided for verification:

- a. Size of containers;
- b. Numbers of each size container;
- c. Number of pickups per week;
- d. Any additional information as required.

2. Solid waste will be collected by personnel of the City's Solid Waste Department on a weekly, as a minimum, basis. Establishments preparing food will have solid waste collection, as a minimum, two (2) times a week. The Public Works Director will determine the number of collections needed per week based upon the type of business, the historical amount of refuse, and good sanitary collection practices.

3. A separate list of all lots or parts of lots in the City upon which no sanitation tax is assessed will also be provided. The Public Works Director will review this list and determine its accuracy.

B. All lots wherein or whereon refuse accumulates, or is likely to accumulate, will be assessed for sanitation service, except as otherwise provided under Section 12-61.

All such lists shall be filed in the Finance Office with a copy in the office of the Public Works Director and shall constitute the list of lots upon which sanitation assessments will be placed each year. (Ord. 1660, 6/4/90; Ord. 1716, 7/20/92; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-64. Resolution.

It shall be the duty of the Public Works Director to estimate, as nearly as practicable, the cost of collecting, refuse reduction or shredding and disposing of garbage in the City each fiscal year on or before July 15th of each year. The Finance Officer will estimate the rates necessary to defray the cost of collection, refuse reduction or shredding and disposing of garbage for the fiscal year by July 15th of each year. The City Commission shall by resolution adopt the rates as they determine necessary to defray the cost of sanitation services for the fiscal year by August 15th of each year and shall so publicize the rates in the manner provided in Section 12-43. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-65. Computation—residential rates.

All residential lots receiving service not otherwise provided for in this Chapter shall be assessed on a residential unit for once a week pickup. Should there be more pickups needed, the City will charge for the additions. (Ord. 1660, 6/4/90; Ord. 1703, 4/20/92; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-66. Repealed and Reserved.

Sec. 12-67. Special service rate.

The above commercial rate anticipates the dumping of containers only. A special services rate will be established each year to recover man and machine hours spent handling garbage outside of containers. These costs are to be billed monthly to each owner/occupant of a commercial establishment on the basis of additional time spent at the pickup site. No charges will be made for special services requiring less than three (3) minutes of the collection crew's time; provided, that the establishment uses acceptable refuse containers. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-68. Unplatted premises.

An area with minimum size of twenty-five (25) by one hundred forty (140) feet upon any unplatted premises within the City and upon which is situated a building or part of a building which necessitates the removal of garbage under this Chapter shall be assessed in the same manner as lots or portions of lots upon which there are residential or commercial buildings or parts of buildings with garbage receptacles necessitating the removal of garbage under this Chapter. (Ord. 1660, 6/4/90; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-69. Additional.

Whenever it becomes necessary by reasons of health and sanitation for the public services division to haul waste material or rubbish that does not come under the classification of garbage, as described in Section 12-1 of this Chapter from any lot or parcel of land where such waste material or rubbish has been placed in the alley, cost of such service shall be billed to the owner of the lot and if

not paid, shall be assessed as an extra assessment against the lot or property from which it has been hauled as provided for in Section 12-35. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-70. Notice.

It shall be the duty of the Finance Officer each year before the passage of the resolution fixing the basic sanitation tax for the year to prepare a list of lots liable for the tax and the total amount to be taxed against each lot or portion of a lot under the provisions of this Chapter. The recording secretary, at least five (5) days before the date set for final adoption of the resolution setting the basic sanitation tax, shall cause to be published in the official paper of the City a notice to all lot owners of the passage of the resolution, the time and place the resolution will come up for hearing of objections and final adoption, and that the list is on file in the Finance Officer's office for inspection. Any person having any objection to the assessment wherefore such tax should not be levied and collected, shall file the same with the secretary not less than ten (10) days from final adoption of the assessment resolution. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Secs. 12-71—12-80. Reserved.

Article VII. Disposal Areas

Sec. 12-81. Standards.

The ultimate means of disposal of all refuse shall be in the County's landfill and/or Refuse District incinerator or as otherwise directed by the City. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-82. Scavenging or salvaging prohibited.

No person shall remove or take away from any City disposal area any soil, manure, refuse or material of any nature whatsoever. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-83. Disposing in unauthorized areas prohibited.

It is unlawful for any person to dispose of any manure, garbage, refuse or other material on City property. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-84. Disposing in unauthorized containers.

It is unlawful for any person to dispose of any garbage waste, refuse, or rubbish in any collection container other than their own designated container provided by the City of Livingston. (Ord. 1660, 6/4/90: Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-85. Hauling regulations.

No person shall haul their own refuse or any other refuse to any disposal facility or dumping area or to any other location except the following:

- A. A licensed contractor may dispose of the contractor's construction and demolition waste.

B. Residents may haul certain types of waste generated on their personal property to the incinerator. This shall not include solid waste from commercial establishments. This waste is limited to leaves, limbs and garden wastes, to construction related projects, and to furniture and appliances.

C. Owners of large tire shops may haul their large truck tires, tractor tires, van tires and passenger tires to the incinerator and pay the tipping fee to the incinerator.

D. Banks hauling or disposing of bank documents under the supervision of a bank officer.

E. The City may designate periodically certain days for disposal of business records or documents. (Ord. 1715, 7/20/92; Ord. 1924 § 1 (part), 3/17/03)

Sec. 12-86. Civil penalty for violations.

It is a civil offense, punishable by a fine not to exceed Three Hundred Dollars (\$300.00) per day for any person to violate any provision of this ordinance codified in this Chapter. Each day that a violation shall continue to exist shall be deemed as a separate and punishable offense. (Ord. 1924 § 1 (part), 3/17/03)

Secs. 12-87—12-90. Reserved.

Article VIII. Weeds and/or Offending Vegetation

Sec. 12-91. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein:

A. "Developed parcel" means any parcel of land that has been used or is being used for commercial or residential use with a principal structure covering over five (5) percent of the parcel.

B. "Offending vegetation" means vegetation which violates the Sections of this Article.

C. "Owner and/or occupant" means any persons who alone, jointly, or severally with others:

1. Has a legal or equitable interest in a dwelling unit, with or without accompanying actual possession hereof;

2. Acts as the agent of a person having a legal or equitable interest in a dwelling or dwelling unit thereof; or

3. Is the general representative or fiduciary of an estate through which a legal or equitable interest in a dwelling unit is administered.

D. "Ownership" means ownership of land which shall be deemed to exist from the center line of any abutting alley, to and including the curb and gutter area of any abutting street of such lot or tract of land.

E. "Undeveloped parcel of land" means any parcel of land zoned for but not currently being used for commercial or residential use.

F. "Weed" means any plant which:

1. Ordinarily grow without cultivation; and

2. Is not grown for the purposes of landscaping or food production.

G. "Weed cut or removed" means weeds that can normally be cut by the use of a push or ridden mower. (Ord. 1660, 6/4/90)

Sec. 12-92. Duty to remove weeds.

The existence of weeds or offensive vegetation in violation of this section constitutes a public nuisance.

A. **Developed Parcel.** It shall be the duty of every owner (occupant) of a developed parcel to cut, destroy or remove, or cause to be cut, destroyed or removed, all weeds in excess of twelve (12) inches in height growing thereon and upon one-half (1/2) of any road, street or alley abutting this property to a height of four (4) inches or less.

B. **Undeveloped Parcel.** It shall be the duty of every owner (occupant) of an undeveloped parcel to cut, destroy or remove, or cause to be cut, destroyed or removed, all weeds in excess of twelve (12) inches in height growing thereon and upon one-half (1/2) of any road, street or alley abutting this property to a height of four (4) inches or less on property located within thirty (30) feet of any developed parcel.

C. **Traffic Hazards.** All weeds and offensive vegetation in developed and undeveloped areas shall also comply with and be subject to all requirements imposed under section 30.52(b) and 30.52(d) concerning visibility at intersections, alleys and drive approaches. (Ord. 1660, 6/4/90)

Sec. 12-93. Notice to destroy.

The Recording Secretary shall give notice to destroy weeds within the City limits by publishing notice to the public at least once each week for two (2) consecutive weeks in a newspaper distributed within the City. The last publication shall not be less than seven (7) days prior to April 30th. (For the calendar year 1990 these notices shall be published following the second reading of this chapter.) Such notice shall at a minimum advise the public as follows:

A. That all owners of real property or agents having control thereof are responsible for destroying all weeds in prohibited areas by extermination, removal or cutting not later than April 30th of each year and to keep the area free of weeds through November 30th of that year.

B. Failure to remove the offending weeds may cause the City to remove the weeds and charge the cost thereof against the real property together with an administrative cost equal to twenty-five (25) percent of the removal cost and a penalty of twenty-five dollars (\$25.00) for each time the City provides the removal. (Ord. 1660, 6/4/90)

Sec. 12-94. Failure to comply.

Upon first failure, neglect or refusal to maintain the prohibited areas free from weeds during the prescribed period, the City shall give notice to the noncomplying owner, agent or occupant thereof. Such notice shall provide as a minimum:

A. That the noncomplying owner, or agent thereof, is allowed seven (7) days from the date of the first notice of noncompliance to exterminate or remove;

B. That upon failure to comply the City may by its own work forces or by contract cause the weeds to be exterminated, removed or cut and the cost thereof shall be assessed against the noncomplying real property together with an additional administrative cost equal to twenty-five (25) percent of the cost of removal and a twenty-five dollar (\$25.00) penalty;

C. If the owner, or agent of the property continues to neglect to maintain the prohibited areas free from weeds, the City may at its sole discretion exterminate, remove or cut the weeds again as needed without additional notice of any kind. Charges as in subsection (2), including penalty, will be assessed for each time the City removes the weeds;

D. That the assessed amount together with costs and penalties shall constitute a lien on the noncomplying real property and will be taxed as a special assessment against the real property. The City has the option of sending a monthly billing statement to the owner, agent or occupant of said premises which is due and payable upon receipt. Should this statement remain unpaid, within sixty (60) days all costs will be levied and assessed against the real property. (Ord. 1660, 6/4/90)

Sec. 12-95. Notice.

Notice under this article is sufficient if served personally or mailed regular mail to the last known address or the last address shown on the tax rolls of the county. Notice shall be deemed given when deposited in a United States Postal Service receptacle. (Ord. 1660, 6/4/90)

Sec. 12-96. Failure to comply misdemeanor.

Any person who wilfully fails to comply with the provisions of this article is guilty of a misdemeanor and shall be punished as provided in Section 1-8. (Ord. 1660, 6/4/90)

Sec. 12-97. Assessment.

A. Annually the City shall prepare a list of all lots, tracts and parcels of real property within the City from which and adjacent to which weeds were removed or exterminated by the City and for which such charges and penalties have not yet been paid, the list shall include as a minimum the following:

1. Name as shown by the tax rolls, common address if known;
2. Tax code of the property;
3. Legal description of the lot, tract or parcel;
4. Cost of the weed removal for that property;
5. Administrative costs;
6. Penalty assessed.

B. The assessment list shall be incorporated into a special assessment resolution in proper form which resolution shall be presented the City Council for consideration. From and after passage of the resolution, the assessments stated therein, together with administrative costs and penalty shall constitute a special tax, as provided in MCA 7-22-4101 and a lien on the real property shown on the assessment list. A copy of the resolution after passage shall be certified to the official collecting the City taxes and assessments. (Ord. 1660, 6/4/90)

Secs. 12-98—12-100. Reserved.

Article IX. Community Decay

Sec. 12-101. Definitions.

As used in this Article:

“Community decay” means a nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses or obstructive to the free use of property so as to interfere with the comfortable enjoyment of life or property.

“Junk vehicle” means a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully and validly licensed and remains inoperative incapable of being driven (Section 75-10-501(4), MCA).

“Person” means an individual, firm, partnership, company, association, corporation or organization of any kind.

“Public view” is any point six (6) feet above the surface of the center of any public street, road or alley from which the community decay can be seen.

“Shielding” means fencing or other barriers to conceal community decay from public view. Any erected shielding must conform to all zoning, planning, building and protective covenant provisions.

“Vehicle” means every device in, upon or by which any person or property may be transported or drawn, including, but not limited to, automobiles, trucks, trailers, machinery, motorbikes, motorcycles, golf carts and tractors. This term does not include mobile homes currently used for human habitation. (Ord. 1660, 6/4/90; Ord. 1970, 6/19/06; Ord. 1971, 7/17/06)

Sec. 12-102. Administration, enforcement and civil penalty.

A. The City Code Enforcement Officer or, if this position is not filled, the City Zoning Coordinator shall enforce this Chapter and institute appropriate action to insure and correct violations.

B. Violations of this Chapter shall be declared a nuisance and shall be punishable by a civil penalty not to exceed Three Hundred Dollars (\$300.00) for each violation or if the infraction is a continuing offense, a civil penalty not to exceed Fifty Dollars (\$50.00) for each subsequent violation. Each day the civil infraction continues is deemed to be a separate and punishable civil offense. (Ord. 1660, 6/4/90; Ord. 1970, 6/19/06; Ord. 1971, 7/17/06)

Sec. 12-103. Community decay standards.

It shall be a violation of this Chapter to allow any of the following conditions to exist within public view on any property in the City:

A. The dumping, piling or stacking of bricks, blocks, waste wood building materials or similar materials on any property except when such materials are being used for construction not to exceed a one hundred twenty (120) day period;

B. The storage or accumulation of cardboard boxes, broken packing boxes, paper or similar items;

C. The piling, dumping or placement of any dirt, demolition waste, including wood, bricks, concrete or similar materials on any property unless such material is to be utilized for fill. When used as fill, all material shall be covered with clean earth fill once every ten (10) days;

D. The storage or accumulation of iron, metal, vehicle or machine parts, junk vehicles, wrecked vehicles, household appliances or other salvaged materials;

E. The storage and accumulation of any rubble, debris, junk or refuse that is deemed to be a nuisance by the Zoning Coordinator;

F. This Section shall not apply to vehicles enclosed in a building or covered by a cover specifically designed for covering vehicles or to any vehicle held in connection with a lawfully operated business enterprise or to any vehicle retained for antique collection purposes pursuant to Section 61-3-411, MCA.

G. This Section shall not be construed to prevent any person from repairing his own vehicles on private property even though exposed to public view provided said person pursues the work to completion within ninety (90) days. (Ord. 1660, 6/4/90; Ord. 1660A, 8/16/90; Ord. 1970, 6/19/06; Ord. 1971, 7/17/06)

Sec. 12-104. Shielding standards.

A. All plans for shielding shall be approved by the Zoning Coordinator prior to installation or construction.

B. When fencing is used for shielding, the space between the boards shall not exceed one and one-half (1 1/2) inches. Chain link fences with standard fiberglass or other inserts are acceptable provided the space between adjacent slats does not exceed one and one-half (1 1/2) inches.

C. Shielding with shrubs and trees shall provide a similar degree of shielding at all times of the year.

D. Other types of fencing may be acceptable.

E. No more than one (1) type of shielding material may be used on any one (1) side of a shielding fence.

F. The fencing is to be maintained by the property owner or occupant in a neat workmanlike manner and shall be replaced when necessary. (Ord. 1660, 6/4/90; Ord. 1970, 6/19/06; Ord. 1971, 7/17/06)

Sec. 12-105. Junk vehicle nuisance declared.

A. Nuisance Declared. All junk motor vehicles, whether on public property or on private property in view of the general public, are declared to be a nuisance.

B. Abatement.

1. Public Property. If the junk motor vehicle is on public property and is not disposed of within seven (7) days of receipt of notice as provided hereinafter from the City of Livingston, the Chief of Police is authorized to remove and dispose of said vehicle. The owner of said vehicle shall be responsible for all costs and expenses for towing, storage and administrative costs to be set by resolution.

2. Private Property. If the junk motor vehicle is on private property and is not shielded or disposed of within thirty (30) days of receipt of notice as provided for herein, the City of Livingston shall commence an action to abate said nuisance. The owner of said vehicle shall be responsible for all costs and expenses for towing, storage, administrative costs to be set by resolution and Court costs.

3. Notice. The Chief of Police shall make reasonable attempt to locate the owner of vehicle and/or lien holder. The address currently maintained by the Montana Department of Motor Vehicle Registration, or the equivalent agency in any other state or country, shall be deemed the address upon which notice shall be made. Any notice is deemed complete by deposit into the United States Postal Service of a return receipt requested mailing to said address.

4. Consent. If the owner of the junk vehicle consents to said abatement, such person shall sign a written consent to abate the vehicle and provide to the City a copy of the motor vehicle registration for said vehicle, if available, or a bill of sale. The signing of such consent shall in no way relieve the owner of paying the costs associated with the towing, disposal of said vehicle and related administrative costs to be set by resolution.

5. Involuntary Abatement. If the owner does not consent to said removal, then the City shall pursue legal remedies through the Court having proper jurisdiction and venue to abate nuisances. (Ord. 1970, 6/19/06; Ord. 1971, 7/17/06)

Secs. 12-106—12-110. Reserved.

Sec. 12-111. Superseding previous Chapter 12.

This Chapter, "Garbage, Trash and Weeds," supersedes the entire Chapter 12 of the Municipal Code of Livingston. (Ord. 1660, 6/4/90; Ord. 1970, 6/19/06; Ord. 1971, 7/17/06)