

Order 122-10/11

Given first reading on 1/3/11

Passage as amended 8-0 2/23/11 (Anton absent)

NICHOLAS M. MAVODONES (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
JILL C. DUSON (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 12, (GARBAGE WASTES AND JUNK)
ARTICLE II (GARBAGE AND SOLID WASTE REMOVAL/RECYCLING)**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 12, Article II of the Portland City Code is hereby amended as follows:*

Sec. 12-16. Definitions.

Bulky waste shall mean any items whose large size or weight precludes or complicates their handling by normal collection, processing or disposal methods, as further defined by the rules and regulations of the department of public services.

Deleted: works

Commercial property shall mean any property upon which is situated a structure used for commercial or business purposes including, but not limited to, the following:

- (a) Apartment buildings containing ten (10) or more dwelling units;
- (b) Hotels, restaurants, warehouses;
- (c) Markets, bakeries, grocery stores, fruit stands;
- (d) Manufacturing or industrial;
- (e) Business offices; and
- (f) Condominiums.

Discarded goods shall mean any old, worn out, broken or abandoned household or commercial goods, equipment, personal property or materials left on a city street or on public property without authorization from the City. It includes bulky waste.

Occupant shall mean the person that has the use of or occupancy of any building or a portion thereof, whether the actual owner or tenant. In the case of vacant buildings or any vacant portion of a building, the owner, agent or other person having the custody of the building shall have the responsibility of an occupant of the building or portion thereof.

Owner shall mean the actual owner of the building, whether individual, partnership or corporation, or the agent of the building, or other person having custody of the building or to whom the rent is paid.

City street shall mean a street formally accepted by the city council or determined to be a city street by a court decision or other act of law; it includes any publicly owned esplanade or sidewalk abutting the traveled portion of the street.

Deleted: Public

Public works authority shall mean the department of public services.

Deleted: works

Recyclable material shall mean paperboard, newspaper, glass, magazines, junk mail, cardboard, #2 natural plastic and aluminum cans and foil, and any additional material so designated by the department of public works. Recyclable material shall be considered waste material for purposes of this article.

Residential properties shall mean any property upon which is situated a residential structure containing at least one (1) dwelling unit but not more than nine (9) dwelling units.

Solid waste shall mean ordinary household waste including, but not limited to, the following: Garbage, trash, rubbish, paper, plastics, metal cans, glass, crockery, cold ashes, and refuse.

Suitable container for material other than recyclable material and yard waste shall mean a plastic bag of fifteen (15) gallon or thirty (30) gallon size officially designated for that purpose by council order. The maximum weight of any bag shall not exceed thirty (30) pounds. Bags may be placed in watertight containers with handles, covered by a tight fitting cover free of sharp edges.

Waste material means solid waste, prohibited waste, or bulky waste.

12-17.1. Bulky Waste Collection.

(a) Bulky Waste shall be collected by the city as prescribed by the rules and regulations for said program established by the Department of Public Services.

Formatted: Font: (Default) Courier New, 12 pt

Deleted: Works

Formatted: Font: (Default) Courier New, 12 pt

(b) No person shall place bulky waste out for collection by the city unless it is in compliance with the rules and regulations as established by the Department of Public Services for the bulky waste collection program.

Deleted: Works

(c) The notice provisions of Sections 12-27 and 12-28 of this Article shall not apply to violations of this section.

(d) Whoever violates this Section of this Article shall be guilty of an offense. The penalty for said offense shall be One Hundred Dollars (\$100.00) plus attorneys' fees and costs and costs of proper disposal of the waste material.

Sec. 12-22. Prohibited wastes.

No person shall place any of the following wastes on the street for municipal collection:

- (a) Hazardous waste: All hazardous waste as defined by federal and state regulatory agencies;
- (b) Hospital waste: All contaminated hospital waste as defined by federal and state laws, i.e., "red bag" pathological anatomical waste;
- (c) Infectious waste: Wastes which are hazardous by reason of their contamination with infectious materials, i.e., "red bag" waste body parts, pathology lab waste, etc.
- (d) Human fecal waste;
- (e) Animal fecal waste which is not contained in a plastic bag;

- (f) Flammable liquids;
- (g) Powder and liquid pesticides, herbicides and fungicides;
- (h) Paint waste and pigments;
- (i) Construction and demolition debris as defined in section 12-101 of this Code;
- (j) Electrical capacitors: Contain oils that may contain P.C.B.'s;
- (k) Special waste as defined by state law, including, but not limited to, asbestos;
- (l) Laboratory chemicals;
- (m) Biohazard materials;
- (n) Plated metal parts;
- (o) Electrical transformers or parts; and
- (p) Hot ashes.

(q) Discarded goods.

Sec. 12-23. Waste not to be thrown in public places; misuse of litter baskets.

(a) No person shall throw or deposit any garbage, or yard waste, solid waste, prohibited waste, or waste matter, or cause the same to be thrown or deposited upon any street, alley, gutter, park, or other public way, or throw or deposit the same in or upon any premises or vacant lot or in any water, or ~~store or keep the same except in~~ suitable containers as required by this article or in litter baskets as supplied by the city. Where the city has supplied litter baskets, no person shall use the litter baskets for the disposal of large volumes of solid waste.

Deleted: to

(b) The notice provisions of Sections 12-27 and 12-28 of this Article shall not apply to violations of this section.

(c) Whoever violates this Section of this Article shall be guilty of an offense. The penalty for said offense shall be One Hundred Dollars (\$100.00) plus attorneys' fees, costs and costs of the proper disposal of the material.

Sec. 12-27. Enforcement.

It shall be the duty of the chief of police or public works authority or their duly authorized representatives to cause the enforcement of the provisions of this article relating to city streets or public property and to prosecute any and all persons violating any such provisions.

Deleted: or the building authority

It shall be the duty of the chief of police or the building authority, or their duly authorized representatives to cause the enforcement of the provisions of this article relating to private property and to prosecute any and all persons violating any such provisions.

The owner of, and any person having responsibility for, property abutting a city street or sidewalk or esplanade where waste material has been deposited shall be presumed to have deposited same and shall be liable for violations of this article in the absence of evidence to the contrary. Notwithstanding the aforesaid, any owner of and/or any person having responsibility for property abutting a city street or sidewalk or esplanade where any garbage or waste material has been deposited in violation of this article shall cause it to be removed within twenty-four (24) hours of the posting or notification, of an order of removal, whichever occurs first, issued by the chief of police or the public works authority or their duly authorized representatives. Oral notice shall only be provided to those persons who have registered their ownership or management interest pursuant to section 6-151 of this Code. Failure to remove such waste within the time specified shall be a violation of this article.

Deleted: the area of

Deleted: the

Deleted:

Deleted: the area of the

Deleted: issuance

Deleted: building authority

If the waste material has not been removed within twenty-four (24) hours of the posting or notification of an order of removal, whichever occurs first, the public works authority shall arrange to have the waste material removed and shall provide written notice of such removal to the owner of record. The owner of record shall be responsible

Deleted: In the event that the building authority has received no registration of the ownership or management interest of the property abutting the area where the waste material has been deposited,

Deleted: building authority

for the fees and costs for collecting and disposing of the waste material as described in section 12-28 of this article, in addition to the penalties imposed by Section 12-30.

Sec. 12-28. Collection and disposal fee.

After the posting or notification of an order of removal given under section 12-27, the city fee for collecting waste material remaining on the street after twenty four (24) hours shall be one hundred dollars (\$100.00) for up to one (1) cubic yard. In the event the waste exceeds one (1) cubic yard, the fee shall be an additional one hundred dollars (\$100.00) per cubic yard or portion thereof. The cubic yard cost to dispose of any amount of collected waste at an approved facility shall be the disposal fee and shall be added to the collection fee. Such fees shall be charged each time that the city removes the waste material deposited in violation of this article from the streets or sidewalks or esplanades abutting the property, whether or not additional notice has been given.

Charges assessed pursuant to this article shall be enforceable by lien for the benefit of the city pursuant to section 1-16 of this Code.

- Deleted: issuance
- Deleted: three (3) oral
- Deleted: s
- Deleted: or written notices
- Deleted: in any twelve-month period
- Deleted: or charge
- Deleted: the expiration of the period of time for compliance with the order
- Deleted: deposited
- Deleted: plus
- Deleted: t
- Deleted: collect and
- Deleted: this