PASSED: 9-0

ORDINANCE 17-06

TO AMEND TITLE 6 (HEALTH AND SANITATION) OF THE BLOOMINGTON MUNICIPAL CODE
- Re: Deleting Chapter 6.04 (Refuse and Yard Waste Collection by the City) and Replacing it with Chapter 6.04 (Solid Waste, Recycling and Yard Waste Collection by the City)

WHEREAS, Chapter 6.04 of the Bloomington Municipal Code sets forth provisions regarding the regulation of refuse, recycling, and yard waste collection in the City's jurisdictional limits; and

WHEREAS, the City of Bloomington Department of Public Works has overseen the operations of the Sanitation Division for many decades and Mayor Hamilton instructed staff of that department to explore the possibilities for modernizing the delivery of this essential City service; and

WHEREAS, in October, 2016, at the request of Mayor Hamilton, the Sanitation Modernization Advisory Committee (Committee), composed of City staff, industry experts, a member of the Common Council, a neighborhood representative as well as a member of the Environmental Commission and a member of the Utilities Service Board, was established to understand current practices and various sanitation service delivery models, and review modernization proposals presented by staff; and

WHEREAS, the Committee's final report was submitted to Mayor Hamilton on February 14, 2017, with the recommendation that the City move forward with a more technologically advanced, less physically and labor-intensive model of automated and volume-based sanitation service delivery; and

WHEREAS, in coordination with the City of Bloomington Utilities Department, the Committee suggests moving forward with a sanitation delivery model that no longer will require the use of purchased "stickers", but would move billing to the City of Bloomington Utilities Department bill, all while maintaining the 2011-2016 average levels of general fund support to these operations; and

WHEREAS, three different volume-based fee structures for solid waste collection are being proposed along with weekly, single-stream recycling to encourage the community to be cognizant of the amount of waste they produce, while also promoting environmental stewardship through increased levels of recycling service; and

WHEREAS, the total makeup of the monthly fee scenarios takes into account a Fixed Fuel and Maintenance Fee that accounts for those costs over time, a Fixed Capital Recovery Fee that allows for capital replacement based on industry best management practices, and a Service Delivery fee that charges higher rates per gallon for the larger size solid waste carts; and

WHEREAS, the goal of implementing this modernized approach to the delivery of sanitation services is to establish more efficient operations which will allow the level of general fund support to decrease over time while providing more convenient and higher levels of service to the residents of the City;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Chapter 6.04 of the Bloomington Municipal Code entitled "Refuse and Yard Waste Collection by the City" shall be deleted in its entirety and replaced with a new Chapter 6.04 "Solid Waste, Recycling and Yard Waste Collection by the City." The codifier shall insert the title in the Table of Contents for Title 6 "Health and Sanitation." Chapter 6.04 shall read as follows:

CHAPTER 6.04

SOLID WASTE, RECYCLING AND YARD WASTE COLLECTION BY THE CITY

Sections:

6.04.010 Definitions.

6.04.020 Collection supervised by the board of public works and department of public works.

6.04.030 Solid Waste Collection.

6.04.040 Recycling Collection.

6.04.050 Yard Waste Collection.

6.04.060 Large Item Collection.

6.04.070 Appliance Collection.

6.04.080 General Collection Practices and Guidelines

6.04.090 Fees and Billing

6.04.100 Enforcement procedures.

6.04.110 Removal of solid waste and recycling carts and yard waste containers.

6.04.120 Enterprise fund.

6.04.130 Capital Recovery fund.

6.04.010 Definitions.

As used in this chapter, the following terms have the following meanings unless otherwise designated:

"Appliances" includes refrigerators, stoves, washers and dryers and similar items. Construction materials, tires, automobile parts, and electronics such as televisions, home entertainment equipment and computer equipment are not included and will not be collected.

"Ashes" means the residue of combustion of such fuels as wood, coal, coke, charcoal and similar materials.

"City-owned or city-approved cart" means those city-owned or city-approved carts which the city purchases and provides to the owners or occupants of residential premises for the placement of solid waste and recycling collection by the city.

"City-approved container" means a watertight thirty-five (35) gallon or less container or two-ply biodegradable wet strength paper bag for the placement of yard waste collection by the city.

"Combustible waste" means all waste substances capable of burning, including garbage, paper, rags, excelsior, wood, grass, leaves and similar materials. At no time will the City collect propane, butane or other combustible or pressurized gas carts.

"Garbage" means all putrescible animal solid, vegetable solid and semisolid wastes resulting from processing, handling, preparation, cooking, serving or consumption of food or food materials.

"Hazardous waste" means a solid waste or a combination of solid wastes that because of its quantity, concentration or physical, chemical or infectious characteristics, may:

1. Cause or significantly contribute to an increase in serious irreversible, or incapacitating reversible illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. This may include but is not limited to automobile fluids, gasses, oils, all batteries, paints, solvents, stains or other items considered hazardous to humans or the environment.

"Noncombustible waste" means all waste substances incapable of burning, including tin cans, tinware and other metallic substances, bottles, glassware, earthenware, ashes and similar materials and, also, discarded articles, the greater part of which is incapable of burning, such as roofing material, electric batteries, etc.

"Owner" means and includes the record titleholder or any person residing in or occupying, any residential premises, and as between such parties the duties, responsibilities, liabilities and obligations imposed in this chapter shall be joint and several.

"Putrescible waste" means waste that is subject to organic decomposition.

"Recycling" means a process by which materials that would otherwise become solid waste are collected, separated or processed, and converted into materials or products for reuse or resale.

"Refuse" means all putrescible and non-putrescible solid wastes, including animal wastes, garbage, solid waste, ashes, dead animals, abandoned vehicles as defined in Section 15.04.020 of the Bloomington Municipal Code.

"Residential premises" means and includes single-family dwellings and any multiple-family dwelling up to and including four separate living units or family quarters per parcel.

"Responsible party" means person or persons held accountable for any violation of this chapter.

"Solid waste" means any garbage, refuse, other discarded material including solid, liquid, semisolid or contained gaseous material.

"Yard waste" means all vegetative matter including grass, weeds, leaves, brush, tree trimmings, hedge clippings and garden waste.

6.04.020 Collection supervised by the board of public works and department of public works.

All solid waste, recyclables, and yard waste accumulated in the city that meet the requirements of this chapter shall be collected, conveyed and disposed of by the city under the supervision of the Board of Public Works and the Department of Public Works. The board shall have the authority to make regulations concerning the days of collection, type and location of carts and containers, and such other matters pertaining to the collection, conveyance and disposal as it finds necessary, and to change and modify the same, provided that such regulations are not contrary to the provisions of this chapter.

Yard waste, recyclables and other solid waste must be separated from one another when placed at the curb for collection. It is a violation of this chapter to mix these items, subject to fines as set forth in Section 6.04.100 of this chapter. The Sanitation Division will not collect these items if they are mixed together.

6.04.030 Solid Waste Collection.

(a) Solid waste carts shall be provided by the City of Bloomington. Said carts shall be maintained in good and sanitary condition, with no ragged or sharp edges or any other defect that could hamper or injure the person collecting the contents thereof.

(b) Solid waste will only be collected from the cart provided by the City on the customer's assigned collection day unless the owner or occupant arranges for an additional pickup on another day with the Sanitation Division in accordance with Board of Public Works policies . Items outside of the cart will not be collected. Residents shall choose a cart they deem appropriate for their needs from the following sizes: thirty-five (35) gallon, sixty-four (64) gallon, or ninety-six (96) gallon.

(c) It will be the responsibility of the resident to notify the Sanitation Division should a cart become damaged and unusable. The cost of replacing a damaged cart not due to normal wear and tear may be the responsibility of the resident, subject to the discretion of the Sanitation Division Director. The replacement cost will be set forth in the rate structure set by the Board of Public Works.

(d) Solid waste scattered by animals or weather shall be removed promptly by the owner or occupant of the premises or be subject to fines in Section 6.04.100.

(e) All solid waste, before being placed in said carts, shall have drained from it all liquids. Solid waste must be free of vermin and pests, and said cart lid must be closed and facing the street for collection. Carts not placed appropriately at the curb or without the lids closed will not be collected.

6.04.040 Recycling Collection.

(a) Recycling collection is provided to recipients of solid waste collection. Collection occurs every week on the customer's assigned collection day. Recyclable items must be placed into the recycling cart provided by the City of Bloomington. Residents shall choose a cart they deem appropriate for their needs from the following sizes: sixty-four (64) gallon, or ninety-six (96) gallon. The lid must be closed with the cart facing the street for collection to occur. Carts not placed appropriately at the curb or without the lids closed will not be collected.

(b) The Department of Public Works, upon approval by the Board of Public Works, shall prepare and promulgate annually a list of what types of paper products, metal cans, glass containers, Styrofoam and plastic bottles are recyclable. The list may change from time to time as the recycling market adjusts to shifting demands and technologies. All paper products must be clean and dry. All metal cans, glass containers and plastic containers must be clean, rinsed out and with the lids removed.

6.04.050 Yard Waste Collection.

(a) All grass, weeds, leaves and other similar yard and garden materials shall be placed in appropriate watertight thirty-five (35) gallon or less container or two-ply biodegradable wet strength paper bag with each weighing less than forty (40) pounds separate from solid waste and recycling and shall not be mixed with any other substances. Said container shall be maintained in good and sanitary condition, with no ragged or sharp edges or any other defect that could hamper or injure the person collecting the contents thereof. Yard waste will be collected weekly on the customer's assigned collection day.

(b) Brush, tree trimmings, hedge clippings and similar materials shall be cut to a length not to exceed four (4) feet and securely tied in bundles not more than two (2) feet thick before being deposited for collection.

(c) During the free leaf collection period in the fall of each year, residents may obtain biodegradable two-ply wet strength paper bags from their choice of local retail establishments. Those bags may be filled with leaves only and placed out for collection on the customer's assigned collection day. The bags may not contain trash or other refuse. Yard waste in plastic bags will not be collected.

6.04.060 Large Item Collection.

Large items, other than appliances, may be placed at the curb on the customer's assigned collection day. The Department of Public Works, upon approval by the Board of Public Works, shall prepare and promulgate annually a list of what types of items are considered large items. For the purposes of route optimization, customers are required to call the Sanitation Division by 8:00 p.m. on the day prior to their assigned collection day to request large item collection. Items such as clothesline poles and swing sets must be broken down before being placed at the curb.

6.04.070 Appliance Collection

(a) Appliances as defined in Section 6.04.010 will be collected weekly on Fridays. For the purposes of route optimization, customers are required to call the Sanitation Division by 12:00 noon on Thursdays. Appliances may be placed at the curb no more than twenty-four (24) hours before the day of collection.

(b) Any appliance containing engine oil and/or gasoline shall be drained of these substances prior to placement at the curb for collection.

6.04.080 General Collection Practices and Guidelines

(a) Collection of solid waste, recycling, yard waste, large items and appliances shall be made at least once each week or more often as may be ordered by the Board of Public Works. Collection schedules shall be established and published by the Board.

(b) Collection shall be made from all places of residence within the city limits except for the following:

(1) Buildings containing more than four residential units;

(2) Residences located above or in the same structure as a business or businesses;

(3) Residential units located on private streets.

However, collection may be provided to the above listed residences if specifically authorized in writing by the Director of Public Works. Before authorizing such collection, the Director of Public Works may require terms and conditions to protect the city and residents. The Director of Public Works may revoke such authorization in writing at his or her discretion.

(c) Collection shall be made from curbs or, where there are no curbs, the property line immediately adjacent to the public thoroughfare. In order to be collected, all carts, yard waste, and other items must be placed adjacent to the curbs, facing the street and suitable for automated collection.

(1) All residents except those approved for special assistance for a person with a disability, illness or infirmity shall place their solid waste and recycling carts and yard waste containers at curbside or at the edge of the street no later than 5:00 a.m. on the day of collection. Any resident requesting to be an assisted stop shall contact the Sanitation Division to receive the necessary paperwork and instructions in order to be approved to receive assisted service.

(2) The cart or container shall be placed in such a manner as not to interfere with overhead power lines or tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance. Carts and containers are to be at least four (4) feet from any tree, pole, mailbox, fire hydrant, etc., and at least ten (10) feet away from any cars parked in the street.

(3) The cart is not to be painted, abused, mutilated, altered or modified in any manner.

(d) Paints, stains and similar materials still in their liquid form shall not be placed in refuse carts or dumpsters and shall not be collected by the department of public works as a part of regular collection.

(e) No person shall remove or attempt to remove materials from any refuse cart or dumpster belonging to another person or business. All materials placed in a refuse cart or dumpster shall be the property of the City.

(f) Highly flammable, combustible, explosive or hazardous materials shall not be placed in refuse carts or dumpsters and shall not be collected by the department of public works as a part of regular collection. Such materials shall be disposed of as prescribed by state and local laws.

(g) Disposal of diapers, animal feces, and cat litter. All diapers, animal feces, cat litter and similar wastes shall be placed in durable plastic bags adequately sealed before being placed in a refuse cart.

(h) Collection shall not be made from alleyways.

(i) Collection shall be made only between the hours of 5:00 a.m. and 10:00 p.m.

(j) It shall be a violation of this chapter for any unauthorized commercial enterprise to collect, obtain, possess, pick up or cause to be collected, obtained, possessed or picked up any refuse, solid waste, garbage or yard waste from places of residence on routes within the city limits that are served by the City Sanitation Division. Occasional removal of bulk trash associated with construction, moving, or seasonal cleaning does not require authorization other than for approval of placement of dumpsters within the right-of-way. The Board of Public Works shall determine such authorization. Any and each such violation hereof from one or more locations shall constitute a separate and distinct violation of this chapter.

6.04.090 Fees and Billing

Service fees for the disposal of solid waste shall be prepared, billed and collected by the City of Bloomington Utilities Department (CBU) as agreed to by the Utilities Service Board and the Board of Public Works.

(a) The service fees for all users shall be prepared and billed monthly in accordance with the established billing procedures of CBU beginning the month following the commencement of automated collection services by the City of Bloomington Sanitation Division.

(1) The following fee schedule ranges will apply based on the solid waste cart size chosen by customers. The Board of Public Works shall determine the final fee for each of the three solid waste cart sizes. At no time shall the individual cart size fees exceed the highest amount of the following ranges, without amendment of this chapter by the Common Council.

(i) 35 Gallon Solid Waste Cart Fee Range: $4.82-$6.51
(ii) 64 Gallon Solid Waste Cart Fee Range: $8.60-$11.61
(iii) 96 Gallon Solid Waste Cart Fee Range: $13.72-$18.52

(b) The monthly bill will also include service fees for the disposal of additionally requested solid waste carts, yard waste, large items, appliances, and additional pickup requests (including pickups requested due to not having carts properly placed for pickup by 5:00 a.m.). Additional fees

will not be charged if the Sanitation Division changes the collection day due to inclement weather or holidays. The following fees will apply:

(1) Additional Carts will cost the full amount of the solid waste cart fee set forth in the fee schedule approved by the Board of Public Works.

(2) Yard waste: $1.00 per approved container, bag or bundle.

(3) Large Items: $10.00 per approved large item.

(4) Appliances: $10.00 per approved appliance.

(5) Additional pickup requests: 125% of regular weekly solid waste charges based on 4.3 weeks on average per month, per year.

(c) The fees for solid waste collection and disposal services provided to single-family residential dwellings shall be billed directly to customer of record with CBU. In the event that the single-family residential dwelling of four (4) units or fewer is not a current customer of CBU, or receives billings through a master meter, the customer shall receive a monthly bill for solid waste disposal services only.

(d) Bills shall be paid in accordance with the policies and procedures set forth by CBU and the Board of Public Works.

(e) Late fees of 3% of the unpaid balance will be assessed to any account holder that fails to pay the amount due within twenty (20) days of billing. This is modeled from the late fee procedures used by CBU. Partial payments shall be allocated in accordance with the interdepartmental agreement between the City of Bloomington and CBU.

(f) In the event a customer of the CBU requests to shut down the water meter to his/her residential premises, CBU shall also contemporaneously discontinue the billing of service fees for the collection performed at the residential premises in accordance with this chapter. In the event that service is discontinued, it is the responsibility of the account holder to notify the Sanitation Division for removal of the solid waste and recycling carts. If the account holder fails to do so, a replacement fee in accordance with the fee schedule approved by the Board of Public Works will be applied to the account holder's final CBU bill.

(g) The fees set forth in part (a)(1) and part (b)(1) through (b)(5) of this section shall expire on November 1, 2020. After that date, no fees for these services shall be authorized without amendment of this chapter by the Common Council.

6.04.100 Enforcement procedures.

(a) If the Director of Public Works, Sanitation Division Director, Director of the Housing and Neighborhood Development Department, the Assistant Director, any Neighborhood Compliance Officer, or any other designee of the directors (collectively referred to as "staff") determines that there exists a violation of this chapter, that person shall issue a notice of violation (NOV) to the responsible party. For purposes of issuing an NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation.

Liability for fines shall not attach to nonpossessory property owner(s) for a period of seven (7) days following issuance of the NOV, provided that the violation is remedied, or that the nonpossessory property owner(s) presents to HAND, within seven (7) days after issuance of the NOV, a true and exact copy of any and all leases in effect during the time period covered by the NOV.

(b) The NOV shall be in writing and shall be served on one (1) or more of the responsible parties in one (1) or more of the following manners: delivery in person; by first class mail; and/or by placement in a conspicuous place on the property where a violation occurs. The notice shall state:

(1) The location of the violation;

(2) The nature of the violation;

(3) The period of correction (if any);

(4) The fine assessed for the violation;

(5) Additional remedies the city may seek for violation;

(6) That the fine is to be paid at the City of Bloomington Controller's Office

(7) That the fine may be contested in the Monroe County Circuit Courts.

(c) Schedule of Fines. The fine for any violation of Section 6.04.110 shall be fifteen dollars ($15). The fine for all other violations of this chapter shall be fifty dollars ($50). Nonpossessory property owners shall not be subject to fines for the seven (7) day period after issuance of the NOV, provided that the provisions outlined in subsection (a) of this section are met. Each day that a violation continues shall constitute a separate violation.

(d) If the responsible party fails to remedy the violation cited in the NOV, the city legal department may bring suit in a court of competent jurisdiction to collect the accumulated fines, any other costs associated with remedy of the violation as are allowed by law, and obtain any other legal remedy available at law.

6.04.110 Removal of solid waste and recycling carts and yard waste containers.

Carts, containers and other articles to be picked up shall not be placed upon the street or sidewalk so as to be visible from the street more than twenty-four (24) hours prior to the time when such solid waste, recycling or yard waste is to be collected. Carts and containers shall be removed from the street or sidewalk on the same day as the collection is made.

6.04.120 Enterprise fund.

The revenue generated by the sanitation services performed at residential premises in accordance with this chapter shall be deposited in the non-reverting enterprise fund. This fund was established for the purpose of accounting and paying for the costs of services performed by the Sanitation Division. When necessary, the common council may approve additional operating transfers into this fund.

6.04.130 Capital Recovery fund.

The revenue deposited into the non-reverting enterprise fund, which is intended for capital replacement of vehicles, equipment and other capital related expenses, shall be transferred by the controller into a non-reverting capital replacement fund. This fund shall be established for the purpose of paying for the costs of capital equipment purchases necessary to replace capital on schedules outlined by industry standards.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and all other requirements of the Indiana Code.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 22nd day of March, 2017.

SUSAN SANDBERG, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 23rd day of March, 2017.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 23rd day of March, 2017.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 6 of the Bloomington Municipal Code entitled "Health and Sanitation" by deleting and replacing Chapter 6.04 bearing the new title of "Solid Waste, Recycling, and Yard Waste Collection by the City." It follows recommendations of the Sanitation Modernization Advisory Committee which was formed to understand the City's current sanitation practices and industry best practices, and review staff recommendations on how to best provide this essential City service. Those recommendations resulted in an extensive rewriting of Chapter 6.04 with major changes to nine components of the chapter. The biggest change outlined in the various subsections of this chapter involves moving from a sticker-based system of revenue generation for solid waste collection by City of Bloomington Sanitation Division to a system of billing for these services through the City of Bloomington Utilities Department. The rationale behind making major changes to how the City of Bloomington provides sanitation services is due to three main focus areas: 1) employee safety and wellness; 2) replacing an aging fleet of sanitation vehicles; and, 3) increasing the effectiveness and efficiency of this essential City service by taking a modernized, smart cities' approach to service delivery. This ordinance codifies a program that involves a volume-based fee system for solid waste collection, a new approach to recycling that includes weekly single-stream collection, as well as the continued provision of services for yard waste, large item, and appliance collection. This ordinance also establishes a non-reverting capital recovery fund which will provide the means of paying for the costs of capital equipment purchases.

Note: This ordinance was revised after distributed in the Council Weekly Packet and introduced at the Regular Session on March 1, 2017. The changes, in brief:

- *Added one, deleted one, and modified two definitions;*
- *Reformatted certain cites and references;*
- *Clarified use of terms carts and containers and reference to certain practices; and*
- *Inserted a new section establishing a non-reverting Capital Recovery Fund to receive transfers by the Controller from the Enterprise Fund to pay for the costs of capital equipment purchases.*

Note: On March 22, 2017, the Council adopted two amendments: Am 01, which clarified the membership on the Sanitation Modernization Advisory Committee in the third Whereas clause and reformatted BMC 6.04.090(b); and, Am 02a, which set an expiration date for sanitation fees, which would require amendment of Chapter 6.04 by the Council for new fees to be imposed.

Distributed to: Mayor, Clerk, Council Administrator, Legal, Controller, Public Works, Sanitation