

ORDINANCE NO. 2016-02

AN ORDINANCE AMENDING TITLE 7 OF THE CODE OF ORDINANCES OF THE TOWN OF TERRY, MONTANA, REPLACING THE OLD CHAPTER 7.12 BY ENACTING A NEW CHAPTER 7.12 TO PROVIDE FOR SOLID WASTE DISPOSAL SERVICES WITHIN THE TOWN

WHEREAS, pursuant to Mont. Code Ann. § 7-1-4123, a municipality may adopt ordinances that, among other things, secures and promotes the general public health and welfare, and provides any service or performs any function authorized or required by state law; and

WHEREAS, pursuant to Mont. Code Ann. § 7-5-4101, the Town Council has the power to make and pass all ordinances not repugnant to the constitution of the United States or of the state of Montana or to the provisions of this title, necessary for the government or management of the affairs of the Town, for execution of the powers vested in the body corporate, and for carrying into effect the provisions of this title; and

WHEREAS, the Town Council has determined that it is necessary to amend Title 7 of the Code of Ordinances of the Town of Terry, Montana, pertaining to health and welfare, replacing the old Chapter 7.12 by enacting a new Chapter 7.12 to provide for solid waste disposal services within the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF TERRY, MONTANA that Title 7 of the Code of Ordinances of the Town of Terry, Montana, is hereby amended and the old Chapter 7.12 is replaced and the new Chapter 7.12 is enacted as follows:

Chapter 7.12: Solid Waste

Section 7.12.010: Definitions

SOLID WASTE: Includes each and every accumulation of animal matter, manure, fruits or vegetable matter, ashes, branches or parts of any trees, shrubs or vines, tin cans, bottles, grasses or weeds, rags, paper, dead animals or parts thereof, garbage, rubbish, trash or filth, and all other offensive matter.

Section 7.12.020: Mandatory Use of City Services.

Except as provided in Mont. Code Ann. § 7-2-4736, all residents, businesses, and other persons located within the Town limits shall be required to use the Town’s solid waste hauling services with respect to all solid waste that the Town hauls, unless the Town approves, in writing, the use

of a licensed private hauler. No resident, business, or other person shall engage a licensed hauler, without first receiving written approval from the Town, to haul solid waste of the type that the Town hauls.

Section 7.12.030: Container Requirements.

- A. Town Approved Containers Required: Solid waste, as identified in this Chapter, shall only be placed outside of a business, home, garage, or other animal proof enclosure if contained in a Town approved solid waste container.
- B. Containers Kept Clean: Residents and businesses shall be responsible for ensuring that all Town approved solid waste containers are kept clean and sanitary.
- C. Repairing and Replacing: Residents and businesses of the Town shall be responsible for repairing or replacing any Town approved solid waste containers that are abused, damaged, or lost.

Section 7.12.040: Placement of Containers.

- A. Preparation for Collection:
 - 1. All solid waste produced in any business, house, flat, apartment, restaurant or other store, building or establishment shall be drained of all surplus liquids, except grease, and thereupon shall be securely wrapped in paper or plastic before being deposited in a Town approved solid waste container.
 - 2. Paper and combustible rubbish of every kind whatsoever shall be securely wrapped, packed, or contained in a manner that will prevent blowing by the wind and shall be deposited in a Town approved solid waste container.
 - 3. All solid waste must be placed in a Town approved solid waste container to be removed by the Town solid waste collectors. If any solid waste cannot be placed in a Town approved solid waste container by the owner or occupant of the premises, then the owner or occupant of the premises must contact Town Hall to make arrangements for pick up and removal of such solid waste by the Town solid waste collectors.
 - 4. Trimmings resulting from trimming or removing hedges and trees shall be cut into short lengths not to exceed four feet (4') and placed in a Town approved solid waste container or moved to the old dump site by the owner or occupant of the premises. If any trimmings cannot be placed in the Town approved solid waste container or moved to the old dump site by the owner or occupant of the premises, then the owner or

occupant of the premises must contact Town Hall to make arrangement for pick up and removal of such trimmings by the Town solid waste collectors. Tree trunks of more than six inches (6") in diameter at the large end shall be removed to the old dump site by the owner or occupant of the premises and shall not be removed by the Town solid waste collectors.

5. All solid waste must be placed in Town approved solid waste containers so as to allow the lids to be shut. The lids on the Town approved solid waste containers must be kept closed at all times.

B. Dirt, Rocks and Building Debris:

1. Dirt and rocks accumulated as a result of improving or grading lawns and gardens will not be removed from the premises or from the streets and alleys adjacent thereto by the Town solid waste collectors.
2. Dirt and rocks accumulated as a result of excavation of building sites shall not be deposited in streets or alleys. Such dirt and rocks shall be removed by the owner, occupant, or contractor, or whoever was responsible for doing the work on the premises from which such dirt and rocks originated.
3. Building debris shall be removed by the owner, occupant, or contractor, or whoever was responsible for doing the work on the premises from which such building debris originated.

Section 7.12.050: Prohibited Acts and Conditions.

- A. Deposits on Public Ways: It is unlawful for any person to throw, scatter, or otherwise place or leave, or cause to be thrown or scattered or otherwise placed or left, upon or along any street, avenue, alley, or other public place, or upon any vacant or unoccupied lot or lots within the Town, any wastepaper, rubbish, refuse, debris, or solid waste of any kind.
- B. Burning: It is unlawful to burn papers, paper goods, carbon, rubbish, solid waste, organic debris, or other types of combustible matter outdoors within the Town.
- C. Use of Specific Containers:
 1. It is unlawful for any person to place, discard, or deposit solid waste into solid waste containers provided or placed within the Town's parks unless such solid waste is actually generated and accumulated in the park by park visitors. The use of such solid waste containers provided in the Town's parks is restricted to solid waste generated in

the park by park visitors, and no other solid waste shall be brought into the Town's parks for disposal.

2. All persons shall place, dispose, discard, or deposit their solid waste in the solid waste containers provided for their particular residence or place of business and shall not use such solid waste containers provided for other persons or businesses, or for public use at Town parks or along Town streets.
 3. It is unlawful for any person who resides outside of the Town limits of the Town of Terry to place, dispose, discard, or deposit their solid waste into solid waste containers provided or placed within the Town's parks or provided for the use by Town residents and businesses.
- D. Special Care Items: It is unlawful to dispose of any products that contain corrosive, toxic, ignitable, or reactive ingredients which may require special care in the methods of disposal.

Section 7.12.060: Removal of Prohibited Conditions.

- A. Responsibility of Owner: It shall be sufficient proof for the purpose of securing a conviction under the terms of this Chapter that any such solid waste or other offensive matter is shown to have been found improperly packed or at any unauthorized place as specified hereinabove, or to have been found in, upon, or adjacent to the grounds or premises used or occupied by such person charged with violation of the terms of this Chapter whether such premises are owned, rented, leased, or otherwise held or occupied in any manner, and any such owners, occupants, tenants, or lessees aware of, or who should have been aware of, the presence of the solid waste which has been improperly disposed of are declared to be personally responsible under this Chapter for any such refuse, solid waste, or offensive matter so thrown, located, placed, or found.
- B. Removal Authority: The Mayor, the Public Works Director, or the Fire Chief shall have the power to, and are authorized to, by printing, posting, or by written personal notice, order the agent, tenant, or owner to remove from his, her or its premises or the streets and alleys adjacent thereto, any rubbish or filth which in the judgment of any of these officers, is a menace to public health, a nuisance, or hazardous in case of fire.
- C. Removal by Town: In case the rubbish is not removed within the time specified in the notice and order, any of the officers shall have the power to cause the rubbish to be removed at the cost of the Town.

- D. Lien on Premises: The cost for the removal of such rubbish, when duly approved by the Town Council, shall be a lien against the real property where such matter was deposited or the real property adjacent to the street or alley where such matter was deposited, and the Town Clerk is authorized to certify the cost to the Department of Revenue for collection along with those taxes and other legal charges against such real property.

Section 7.12.070: Charges for Collection.

- A. Following a public hearing and public notice, the Town Council shall adopt a resolution regulating, establishing, or changing rates for solid waste collection at such times as it determines necessary to defray the costs of solid waste collection.
- B. The Town may make a yearly tax assessment for the costs of collection of solid waste from the streets, alleys, commercial, and private premises of the Town. Fees shall be charged to the owner of the property from which such solid waste is collected.
- C. New construction not reported to the Department of Revenue by the November reporting date shall be assessed a prorated fee for solid waste collection.
- D. Payment of fees shall be made on a yearly tax assessment and unpaid fees shall be delinquent after that date. Delinquent fees may be assessed against the property.
- E. Additional household waste or demolition waste may be collected in one of the Town's rental dumpsters. Fees for dumpster rentals shall be set by resolution of the Town Council.

Section 7.12.080: Violation; Penalty.

A person convicted of violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, be subject to a fine as provided in Section 1-4-1 of this Code.

DATE OF EFFECT:

This ordinance shall take effect thirty (30) days from the date of its final passage by the Town Council.

FIRST READING AND PASSAGE by a majority vote of the members present this 9th day of June, 2016

YEAS 4

NAYS 0

Rolane Christofferson
Mayor

ATTEST:

Z. Schlegel
Town Clerk

POSTED IN THREE (3) PUBLIC PLACES AND MADE AVAILABLE TO THE PUBLIC this 10th day of June, 2016.

Z. Schlegel
Town Clerk

SECOND READING AND PASSAGE by a majority vote of the members present this _____ day of _____, 2016

YEAS _____

NAYS _____

Mayor

ATTEST:

Town Clerk

ORDINANCE NO. _____