

ORDINANCE O-17-04

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE,
COUNTY OF COCHISE, STATE OF ARIZONA, AMENDING ARTICLES 9.1.4 AND 9.1.5 OF
THE CITY CODE REGARDING SANITATION SERVICE RATES AND FEES AND
PROVIDING FOR REPEAL AND SEVERABILITY.**

WHEREAS, Article 9.1.4 of the City Code requires an annual review of all City rates for the collection and disposal of solid waste; and

WHEREAS, the recent increases in the costs of providing these services warrant an increase in the rates for delivering these services; and

WHEREAS, the City has the authority to impose fees that are sufficient to recover the costs of developing, operating, administering and financing the City's solid waste collection system; and

WHEREAS, it is appropriate that all of the beneficiaries of this service are charged and pay a fair share of these costs; and

WHEREAS, these amendments to the sanitation fees of this City of Bisbee are in the best interests of the City and its citizens; and

WHEREAS, A.R.S. 9-499.15 sets forth specific notice requirements before increasing fees on businesses, including publishing written notice of the proposed increase, the schedule of a proposed increase, and a written report or data that supports the proposed increase on the City's website for at least sixty days before the date that the proposed rate is approved or disapproved by the public body.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Bisbee as follows:

i) That it intends to amend Sections 9.1.4 and 9.1.5 of the City Code of the City of Bisbee as stated in the attached Exhibit A, which is incorporated herein by reference.

ii) That the City Clerk and Public Works Director are directed to comply with the notice provisions of A.R.S. 9-499.15.

iii) That the City Clerk is directed to schedule an agenda item to approve the proposed rates for the collection and disposal of solid waste for a Council meeting at least sixty days after the notice requirements are posted.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee, County of Cochise, State of Arizona, this 20 day of June, 2017.


David M. Smith, Mayor

ATTEST:


Ashlee Coronado, City Clerk

APPROVED AS TO FORM:


Britt Hanson, City Attorney

EXHIBIT A

AMENDMENTS TO ARTICLES 9.1.4 AND 9.1.5 OF THE CITY CODE OF THE CITY OF BISBEE

~~Deleted Language~~

New Language

9.1.4. Rates

(O-90-18; O-91-32; O-94-03; O-99-07; O-06-14; O-07-08; O-08-15; O-10-10; O-11-10)

It shall be the responsibility of the City Council to review all rates as referred to in this Section on an annual basis. The review shall commence not later than April 1 of each year and be completed by May 31 of the same year. Any change in rates will be subsequently reflected in the following year's annual budget beginning on July 1. The following service fees shall be assessed for garbage collections:

- A. Residential Class, single family residence only, within the corporate limits of the City of Bisbee ~~-\$17.08~~ **\$20.40** per month. A service fee shall apply to all inhabitable single family residential dwellings based upon the costs of making adequate services available to the dwelling, regardless of whether such service is used in any particular month. The frequency of garbage collections shall be determined by the City Manager, or designee.

- B. Commercial class, including multi-family and industrial collection, within the corporate limits of the City of Bisbee. The service fee shall apply to all businesses based upon the costs of making adequate services available to the business regardless of whether such service is used in any particular month.
 1. Where individual container(s) cannot be assigned to an individual commercial account, the per month service fee shall be:
 - a. Small Business. Examples include, but not limited to; small offices, home business.

per month = ~~\$28.16~~ **\$33.64**

 - b. Small Intermediate businesses. Examples include, but are not limited to small cafes, duplex, triplex and fourplex housings, bed and breakfasts, hotels, motels with ten (10) or less units.

per month = ~~\$47.87~~ **\$57.20**

 - c. Intermediate business. Examples include, but are not limited to restaurants, bars, apartment houses, bed and breakfasts, hotels, and motels with more than ten, but less than twenty-six (26) units.

per month = ~~\$137.14~~ **\$163.85**

- d. Large business. Examples include, but are not limited to apartment complexes, bed and breakfasts, hotels and motels with more than twenty-five (25) units.

per month = ~~\$270.90~~ **\$323.67**

- e. Minimum Commercial. Examples include but are not limited to part-time business located in commercial buildings not occupied more than thirty (30) hours per week, maximum of one (1) employee.

per month = ~~\$18.78~~ **\$22.43**

2. Where individual container(s) can be assigned to an individual commercial account, the per month service fee shall be calculated by summing the following components:

- a. Disposal factor = ~~\$2.66~~ **\$3.18** per cubic yard (Disposal factor) x (number of containers) x (size of containers in cubic yards) x (number of pickups per week x 52/12).

(Containers: medium = 1.5 cy, large = 3.0 cy)

- b. Collection factor = ~~\$1.15~~ **\$1.18** per pickup (collection factor) x (number of containers) x (number of pickups per week x 52/12).

- c. Administration factor = ~~\$3.89~~ **\$4.01 per month**

- d. Example: Two (2) large containers picked-up four (4) times per week:

$$\begin{aligned}
 \text{Disposal} &= (\del{\$2.66} \mathbf{\$3.18}) \times (2) \times (3.0 \text{ cy}) \times (4 \times 52/12) = && \mathbf{\$276.64} \mathbf{\$284.94} \\
 + \text{Collection} &= (\del{\$1.15} \mathbf{\$1.18}) \times (2) \times (4 \times 52/12) = && \mathbf{\$39.87} \mathbf{\$41.06} \\
 + \text{Administration} & && \mathbf{\$3.89} \mathbf{\$4.01} \\
 & && = \mathbf{\$320.40} \mathbf{\$330.01}
 \end{aligned}$$

3. Commercial pickup per week shall be a minimum of two (2).
4. The maximum weight of refuse allowed per container per pickup shall be 300 pounds for a large container and 150 pounds for a medium container. If more than one container is assigned to an account, the maximum weight allowed shall be the sum of the maximum weights.
5. In the event that an individual account's container(s) may contain more than the maximum weight allowed, the Public Works Director may initiate a random weight check of the refuse.
- a. The weight check shall consist of a minimum of two (2) weight checks within a thirty (30) calendar day period. If the weight check shows a violation of the maximum weights allowed, the Public Works Director shall cause an adjustment of the fee charged to the account.

- b. The fee shall be adjusted by determining the minimum number of containers and/or pickups per week required to adjust the account to eight percent (80%) of the maximum weight allowed based upon the actual average weight check per container.
- c. The adjusted fee shall begin and be charged to the account beginning the first full month after the determination of violation of maximum weight allowed. Notice of change shall be sent to the account by regular and certified mail. The adjusted fee shall remain in effect for a minimum of three (3) months.
- d. The account may request, in writing, to the Public Works Director for a review of the basis for adjusted fee within thirty (30) calendar days after the date notifications are mailed to the account. If such a review is requested, the average actual weight check per container must be less than eighty percent (80%) of the maximum weights allowed to cause a readjustment of the fees.
- e. Example:
The account has three (3) large containers picked up three (3) times per week. A weight check is made with an average weight of 1,200 pounds per pickup or 400 pounds per containers.

Adjustment:

$400 \text{ lbs.} \times 3 \text{ containers} \times 3 \text{ pu/wk} = 3,600 \text{ lbs.}$

$3,600 \text{ lbs.} / (300 \text{ lbs.} \times 80\%) = 15 \text{ pu/wk}$

$15 \text{ pu/wk} / 3 \text{ containers} = 5 \text{ pu/wk}$

The adjustment would be based on the same number of containers with pickups per week increased from three (3) to five (5).

- C. Areas and Days of Yard Debris and Special Pickup Collection- The City has been divided into two (2) yard debris collection areas. Each collection area will be serviced every other Wednesday. During this day, City employees will collect, at no extra cost to the public, yard debris such as tree limbs, branches, dead plants, and leaves. The branches and limbs must be cut into 3 foot or smaller lengths and tied into bundles not to exceed thirty-five pounds. The total amount of yard debris allowed per pickup is 2 cubic yards. All requests for yard debris pickup must be made to the Public Works Department by 5:00 pm on the Monday preceding the scheduled Wednesday pickup. Materials for pickup shall not be set out prior to the Saturday before the scheduled pickup.

The City will also provide special pickups for items other than yard debris such as refrigerators, washers and dryers, water heaters, furniture, and homeowner generated construction materials (from residential, non-professional remodeling. A fee of Sixty-Five Dollars (\$65.00) plus the per item fee for any special waste that will be charged by the Cochise County Transfer Station, will be required for such special pickups. A maximum of two cubic yards or 750 pounds will be picked up for the initial fee of thirty dollars. A Service fee, if in excess of the initial two yards or 750 pounds, shall be calculated by summing labor, equipment and disposal cost needed to do the collection:

large dump truck (greater than 5 cy)	= \$ 25.00/hour
small dump truck	= \$ 15.00/hour
pickup truck	= \$ 10.00/hour
loader	= \$ 35.00/hour
labor (per person)	= \$ 15.00/hour
disposal = posted fee at transfer station	
The increment of time shall be by the quarter hour.	

Requests for special pickup must be made to the Public Works Department by 5:00 pm, the Monday preceding the scheduled Wednesday pickup, and must be paid in full, in advance. Materials shall not be set out prior to the Saturday before the scheduled pickup.

9.1.5. Responsible Party, Exemptions, and Reductions

(O-99-07; O-94-12; O-94-03; O-91-32)

A. Responsible Party

Real property owners, as recorded in the official Cochise County records, shall be legally responsible for the payment of service fees imposed under Section 9.1.4. of this Code, notwithstanding any private lease or rental agreements that may create any third party obligations for payment. It shall be the responsibility of the property owner to notify the City Treasurer, in writing, within 30 days of the sale, transfer or purchase of any property subject to these fees and to provide information necessary to change the City's records, including the name and address of new owner and property identification number. Both the prior owner and any new owner shall be jointly and severably liable for the payment of any accruing fees until the City is provided with information regarding any change of ownership.

B. Exemption for Unoccupied Property

Residential or commercial properties which are unoccupied or vacant for a period of time exceeding one month shall be charged a fee of Fourteen Dollars and Seven Cents (~~\$13.66~~) **(\$14.07)** for each month of vacancy following compliance with the provisions of this section. The reduced fee shall not be available retroactively.

In order to be eligible for this reduced fee, the property owner must file an affidavit, on a form supplied by the City, stating under oath that the property has been unoccupied or vacant for a period of time exceeding one month. The affidavit shall also set forth the property owner's acknowledgment that payment of the reduced fee in any month shall be deemed to be a continuing representation that the property remains vacant or unoccupied. The form supplied by the City shall contain a statement warning the property owner that submission of a false affidavit or acknowledgement shall be considered a Class 6 felony pursuant to A.R.S. §39-161. The property owner may be periodically required to reconfirm eligibility for the reduced fee.

In the event the property owner submits any false affidavit or payment, the property shall be charged the entire fee otherwise required by Section 9.1.4 for the entire period during which reduced fees were paid, retroactive to the month following the filing of the initial affidavit.

C. Reduction for Low Income Customers- A policy providing for discounts for low-income households is hereby established.

1. Property owners shall pay a discounted garbage collection rate of ~~\$5.12~~ **\$6.11** per month, upon application, provided income for the household is at or below fifty percent (50%) of the federal poverty guideline for a two-person household and the householder provides proof of income.
2. Property owners shall pay a discounted garbage collection rate of ~~\$10.25~~ **\$12.25** per month, upon application, provided income for the household is no more than one hundred percent (100%) of the federal poverty guideline for a two-person household and the householder provides proof of income.
3. Proof of income shall consist of the householder's last federal income tax return or such other proof as may be satisfactory to the City. Proof of income shall be presented yearly.
4. Notwithstanding the provisions of Sections C (1) and (2) above, the City Manager is hereby authorized to waive or reduce garbage collection rates for any designated, low-income resident household for any period of time up to six months where exigent circumstances would cause higher rates to cause an undue hardship to the household. "Exigent circumstances" shall mean any one time or temporary emergency event or circumstance that severely limits or prevents the payment of existing garbage collection rates. Adequate proof or documentation shall be presented in support of a request made under this section.